

New Jersey Commissioner of Education

Final Decision

Y.H. and S.H., on behalf of minor child, A.G.H.,

Petitioners,

v.

Board of Education of the Township of West Orange, Essex 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 ALJ that the petition is untimely under *N.J.A.C. 6A:3-1.3(d)*, and that petitioners have failed to present a compelling reason or exceptional circumstances warranting relaxation of the ninety-day rule.

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: January 29, 2026
Date of Mailing: January 30, 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

DISMISSAL

OAL DKT. NO. EDU 17924-25

AGENCY DKT. NO. 319-9/25

Y.H. AND S.H. O/B/O A.G.H.,

Petitioner,

v.

**WEST ORANGE, BOARD OF
EDUCATION, ESSEX COUNTY**

Respondent.

Y.H. and S.H., appearing pro se for minor child A.G.H.

**Jaclyn Arminio, Esq., for respondent (Cleary, Giacobbe, Alfieri, Jacobs, LLC,
attorneys)**

Record Closed: December 8, 2025

Decided: December 12, 2025

BEFORE NANCI G. STOKES, ALJ:

STATEMENT OF THE CASE

On Sunday, September 19, 2025, or ninety-two days after the respondent's determination, petitioners challenged the respondent's June 19, 2025, finding that A.G.H.

committed an act of Harassment, Bullying, and Intimidation (HIB). Is the claim time-barred? Yes. Under N.J.A.C. 6A:3-1.3(d), a challenger must appeal "no later than the 90th day [after receiving] notice of a final order, ruling, or other action by the district board of education . . . that is the subject of the [case]." Ibid.

PROCEDURAL HISTORY

By email dated September 19, 2025, Y.H. and S.H. filed a Petition on behalf of their minor child, A.G.H., with the Commissioner of the Department of Education (DOE), contesting the West Orange Board of Education's (District or Board) conclusion received on June 19, 2025, that A.G.H. committed a series of HIBs against another student. Petitioners assert that the events between the students were "peer conflict" that did not rise to the level of a HIB, and seek to overturn the HIB determination, clearing A.G.H.'s record of the HIB.

In response to the petition, the Board filed a Motion to Dismiss in place of an Answer on October 9, 2025, arguing that Y.H. and S.H. filed their petition out of time. The Commissioner opted not to address the respondent's motion to dismiss and transmitted this case to the OAL. On October 15, 2025, the OAL filed the 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.

Following a prehearing conference addressing motion procedures, this tribunal requested that petitioners submit their opposition to the motion by December 1, 2025, which they did. On December 8, 2025, the Board replied, and I closed the record.

DISCUSSION AND FINDINGS OF FACT

Based on the petition and its supporting documents, as well as arguments presented in support and in opposition to this motion, I **FIND** the following as **FACT** for purposes of this motion only:

A.G.H. and A.T. are students at Washington High School within the West Orange public school system. Following an incident between A.G.H. and A.T. on April 18, 2024, wherein A.T. gave A.G.H. the "middle" finger and tried to instigate a physical fight, the school staff separated the students and spoke to them. A.T. reported being taunted by A.G.H. about his size, which resulted in a HIB investigation.

On May 2, 2024, the Superintendent presented an executive summary to the Board stating that the school's investigation determined A.G.H. committed HIB against A.T.

On May 7, 2024, the Board issued a letter to the petitioners that provided information about the HIB determination. Yet, the Board did not hold a hearing before issuing its determination.

On June 14, 2024, the petitioners requested a hearing and then filed a HIB report against A.T. on behalf of A.G.H. on June 17, 2024.

On June 24, 2024, the Board advised the petitioners that A.T. did not engage in a HIB against A.G.H.

On September 19, 2024, the petitioners filed a petition with the DOE, which filed it as a contested case with the OAL.

On March 21, 2025, the assigned Administrative Law Judge (ALJ) remanded the case back to the Board to allow the petitioners a hearing before the Board.

The Board conducted a full hearing on June 16, 2025, which the petitioners and A.G.H. attended.

On June 19, 2025, the Board forwarded its determination by email and regular mail, which upheld that A.G.H.'s actions constituted HIB against A.T.

On September 19, 2025, the petitioners filed a challenge to that determination with the DOE. That filing was ninety-two days after the Board's June 19, 2025, determination. Indeed, I **FIND** that the petitioners filed their challenge to the HIB decision more than ninety days after receiving notification of the Board's findings.

This tribunal allowed petitioners to respond to the motion concerning the untimeliness of their petition. In other words, I make additional **FINDINGS** of **FACT** based on their response necessary to address the motion. To excuse their late petition, the petitioners offer employment concerns, difficulty retaining legal counsel, and scheduling pressures. They contacted and consulted with an attorney in June 2025 but opted to wait until they resolved their employment issues to move forward with retaining an attorney. (Petitioner's motion response.) They advised the consulting attorney that they would contact the firm in early September, but they did not. Id. In response, the consulting attorney reminded the petitioners that there may be deadlines applicable to their case, like the Board's June 19, 2025, HIB decision letter advised. Id.

DISCUSSION AND CONCLUSIONS OF LAW

Under N.J.A.C. 6A:3-1.10, "upon motion to dismiss filed in lieu of answer, the Commissioner may dismiss the petition on the grounds that the petitioner has advanced no cause of action even if the petitioner's factual allegations are accepted as true." See Sloan v. Klagholtz, 342 N.J. Super. 385, 394 (App. Div. 2001). Our courts recognize that "[t]he test for determining the adequacy of a pleading is whether a cause of action is suggested by the facts." Velantzas v. Colgate-Palmolive Co., 109 N.J. 189, 192 (1988). The "inquiry is limited to examining the legal sufficiency of the facts alleged on the face of the complaint," Printing Mart-Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989), and "the legal requisites for [the petitioner's] claim must be apparent from the complaint itself." Edwards v. Prudential Prop. & Cas. Co., 357 N.J. Super. 196, 202 (App Div.), certif. denied, 176 N.J. 278 (2003).

Here, I **CONCLUDE** that the evidence, even viewed in the most favorable light to petitioners, demonstrates that they filed their petition beyond the ninety-day limitation period, and the motion's outcome depends upon the circumstances presented to excuse the late filing.

Timeliness

Under N.J.A.C. 6A:3-1.3(d), a party must file an appeal with the Commissioner of Education "no later than the 90th day from the date of receipt of the notice of a final order, ruling, or other action by the district board of education, individual party, or agency, that is the subject of the requested contested case hearing." 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. Board of Educ. of Berkeley Twp., 131 N.J. 572, 582 (1993).

Courts strictly construe and consistently apply the ninety-day limitation period. Kaprow, 131 N.J. 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). This period begins to run 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. Indeed, the "notice of a final order, ruling or other action" is "sufficient to inform an individual of some fact that he or she has a right to know and that the communicating party has a duty to communicate." Id. at 587. Notably, a petitioner need not receive official and formal notification that they may have a valid claim to begin the ninety days. Id. at 588. Still, the ninety-day filing period is a jurisdictional limitation, which the courts and the Commissioner strictly enforce and is typically not equitably relaxed absent fraud, defective notice, or misleading conduct by the school district. Riely, 173 N.J. Super. at 113. Here, petitioners assert no such concern or deficiency and acknowledge receipt of the Board's HIB determination on June 19, 2025.

Even accepting the petitioner's position that the Board improperly determined the HIB against A.G.H., they needed to file a petition challenging that determination in a timely manner. Undeniably, the petitioners acknowledge that they received notice of that decision on June 19, 2025, and the obligation to file this challenge within ninety days. Indeed, they filed their earlier petition regarding the same events promptly. Still, the ninety-day limitation flows from the Board's June 19, 2025, notice and expires on September 17, 2025. Indeed, I found that their petition was indisputably late. The petitioners offer only personal reasons to explain their tardiness, even if only two days after the ninety-day period expired. Undeniably, they sought consultation with an attorney, but opted to wait to engage counsel's services, despite counsel's reminder that a challenge to the Board's decision was time-sensitive.

The petitioners also suggest that this tribunal should consider the petition's late filing as substantially compliant. However, cases relied upon by petitioners to support this position do not address a jurisdictional limitation period, like here, but instead address other filing issues. In Berstein v. Bd. of Trustees of Teachers' Pension and Annuity Fund, 151 N.J. Super. 71 (App. Div. 1977), the case addressed eligibility for ordinary disability retirement and whether Bernstein remained eligible to apply after her membership in the fund ended, not whether she missed a statutory deadline to challenge a final administrative decision. Id. Similarly, Galik v. Clara Maas Medical Center, 167 N.J. 241 (2001), involved a substantive pleading requirement, not a jurisdictional limitation necessary to invoke a tribunal's authority. Id. To be sure, in O.W. and L.W. o/b/o A.W. v. North Bergen Bd. of Educ., OAL Dkt. No. EDU 15824-24, Agency Dkt. No. 270-10/23 (Final Decision March 3, 2025), the Commissioner dismissed a petition challenging a HIB determination as untimely even though petitioners attempted to file within the required timeframe but failed to cure procedural deficiencies in time. In other words, the Commissioner does not recognize substantial compliance in this regard.

Still, the Commissioner may exercise his authority under N.J.A.C. 6A:3-1.1.6 to relax the application of the ninety-day rule "where strict adherence thereto may be deemed inappropriate or unnecessary or may result in injustice." Ibid. However,

exceptions to the ninety-day rule are only appropriate where compelling circumstances exist to justify the enlargement or relaxation of the time limit. See Kaprow, 131 N.J. at 590; DeMaio v. New Providence Bd. of Educ., 96 N.J.A.R.2d (EDU) 449, 453.

Yet, this extraordinary relief is usually reserved only for situations where the party presents a substantial constitutional issue or a matter of significant public interest beyond concern only to the parties. Portee v. Bd. of Educ. of Newark, 94 N.J.A.R.2d (EDU) 381, 384; Wise v. Trenton Bd. of Educ., EDU 160-00, Initial Decision (July 25, 2000), adopted, Comm'r Decision (September 11, 2000), aff'd, St. Bd. (January 3, 2001), <http://njlaw.rutgers.edu/collections/oal/>.

Notably, the petitioners' claim has only personal significance, making relaxation of the rule even less appropriate. If the Commissioner relaxed the filing timeframe for every harsh result, that action would nullify the rule's salutary public policy of encouraging prompt resolution of disputes. Pacio v. Bd. of Educ. of Lakeland Reg. High Sch. Dist...., 1989 S.L.D. 2060 (Comm'r July 29, 1989). Thus, I **CONCLUDE** that the petitioners do not present exceptional circumstances or a compelling reason that warrant relaxation of the ninety-day rule and that they filed the petition beyond the required time frame.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that the Board's motion to dismiss be **GRANTED**. I further **ORDER** that the Petition of Appeal be **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.



December 12, 2025

DATE

NANCI G. STOKES, ALJ

Date Received at Agency:

December 12, 2025

Date Mailed to Parties:

ljb