

398-26
OAL Dkt. No. EDU 12515-25
Agency Dkt. No. 182-6/25

New Jersey Commissioner of Education
Final Decision

J.G., on behalf of minor child, K.G.,

Petitioner,

v.

Board of Education of the Township of
Lumberton, Burlington County,

Respondent.

The record of this matter, the Initial Decision of the Office of Administrative Law (OAL), the exceptions filed by petitioner pursuant to *N.J.A.C. 1:1-18.4*, and the Lumberton Township Board of Education's (Board) reply thereto have been reviewed and considered.

In December 2024, petitioner's child, K.G., was involved in an incident in the school gym. A group of five girls approached K.G., and they all exchanged words and gestures. Two other girls then approached and pushed K.G. to the floor. The other students were disciplined according to the district's code of conduct, with consequences ranging from lunch detentions to out-of-school suspensions, depending on each student's level of culpability. However, the Board determined that the incident was not an act of harassment, intimidation, and bullying (HIB). Petitioner appealed.

The Administrative Law Judge (ALJ) found that the district's anti-bullying coordinator (ABC) conducted a thorough and prompt investigation and concluded that the incident was a

result of mutual conflict rather than HIB. The ALJ noted that petitioner did not identify any distinguishing characteristic of K.G., which is required under the law for an act to constitute HIB; while petitioner argued that there was a power imbalance because there were seven other students against K.G., the ALJ found that a power imbalance alone is insufficient to substantiate a finding of HIB. Accordingly, the ALJ concluded that petitioner had failed to show that the Board's decision was arbitrary, capricious, or unreasonable.

In her exceptions, petitioner argues that all of the requisite criteria for an act of HIB were met; she contends that the aspect of an imbalance of power is crucial to the decision. In response, the Board argues that petitioner has not identified any distinguishing characteristic of K.G., so all of the statutory criteria have not been met. The Board also cites to case law supporting the ALJ's conclusion that a power imbalance is insufficient on its own to support a finding of HIB.

Upon review, the Commissioner concurs with the ALJ that the Board's HIB determination was not arbitrary, capricious, or unreasonable. The Anti-Bullying Bill of Rights Act (Act) defines HIB 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.]

In sum, a finding of HIB requires three elements under the Act. First, the conduct must be reasonably perceived as being motivated by any actual or perceived characteristic expressly identified in the statute, or by any other distinguishing characteristic. Second, the conduct must substantially disrupt or interfere with the rights of other students or the orderly operation of the school. Third, one of the three conditions set forth in subsections (a), (b), and (c) must be satisfied. *Wehbeh v. Bd. of Educ. of the Twp. of Verona, Essex Cnty.*, Commissioner Decision No. 510-20 (Feb. 4, 2020).

Here, petitioner has not identified any distinguishing characteristic of K.G. that meets the criteria of the statute. Petitioner argues that because her daughter was facing a group of seven other students, there was a power imbalance. However, a power imbalance alone – without another distinguishing characteristic – is not sufficient to meet the statutory criteria required for an act to constitute HIB. *See, e.g., Klapach v. Bd. of Educ. of the Borough of Fort Lee*, Commissioner Decision No. 79-21 (Apr. 6, 2021); *J.E. and R.E. v. Hunterdon Central Regional Bd. of Educ.*, OAL Dkt. No. EDU 188-14 (Initial Decision, Sept. 28, 2017), *aff'd*, Commissioner Decision No. 366-17 (Dec. 21, 2017). In the absence of any distinguishing characteristic, the Board's decision that K.G. was not the victim of an act of HIB was not arbitrary, capricious, or unreasonable.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

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

OAL DKT. NO. EDU 12515-25

AGENCY DKT. NO. 182-6/25

J.G. ON BEHALF OF MINOR CHILD, K.G.,

Petitioner,

v.

TOWNSHIP OF LUMBERTON BOARD OF

EDUCATION, BURLINGTON COUNTY,

Respondent.

J.G., petitioner, pro se

Susan Hodges, Esq., for respondent (Parker McCay, PA, attorneys)

Record Closed: April 13, 2026

Decided: July 13, 2026

BEFORE **MICHAEL R. STANZIONE**, ALJ:

STATEMENT OF THE CASE

Respondent, the Township of Lumberton Board of Education (Board or District), upheld a harassment, bullying, or intimidation (HIB) determination, finding that on December 12, 2024, petitioner J.G.'s daughter, K.G., was not a victim of HIB. Should the HIB conclusions stand? Yes. Respondent's determinations are entitled to a presumption

of correctness, and petitioner has not established that the decisions were arbitrary, capricious, or unreasonable.

PROCEDURAL HISTORY

On March 13, 2025, the Board upheld a February 21, 2025, finding that K.G. was not a victim of HIB on December 12, 2024. On June 10, 2025, petitioner J.G., on behalf of K.G., appealed the Board's decision of March 13, 2025, to the Department of Education (DOE). The DOE transmitted the matter to the Office of Administrative Law (OAL), where it was filed on July 14, 2025, to be heard as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23.

After several prehearing conference calls, I held the hearing on February 10, 2026, but kept the record open for the parties to obtain transcripts and provide post-hearing submissions. I closed the record on April 13, 2026. I received an extension to submit the initial decision in this case, and the due date was moved from May 28, 2026, to July 13, 2026.

DISCUSSION AND FINDINGS OF FACTS

The **FIND** the following **FACTS** were stipulated to and accepted as **FACT**:

1. Petitioner J.G. is the parent of K.G.
2. K.G. attended Bobby's Run School, located in Lumberton, New Jersey.
3. The incident happened on December 12, 2024.
4. The incident happened during gym class.
5. Following the December 12, 2024, incident, petitioner filed a HIB 338 form requesting an investigation into whether the alleged incident constituted an act of HIB.

6. On January 24, 2025, Lisely Mendez, Principal, filed a HIB 338 form requesting an investigation into whether the alleged incident constituted an act of HIB.
7. As part of the investigation, K.G. was interviewed.
8. As part of the investigation, alleged offenders A.J., M.K., Z.C., T.Y., I.L., A.T., and V.W. and witnesses I.O., A.A., and B.T. were interviewed.
9. The interviews related to the investigation occurred on January 29, 2025, January 31, 2025, and February 3, 2025.
10. The investigation was completed on February 5, 2025.
11. On February 20, 2025, the results of the investigation were presented to the Board.
12. On February 21, 2025, respondent sent petitioner a letter stating that the result of the investigation was inconclusive.
13. On March 11, 2025, an appeal hearing was held before the Board of Education.
14. On March 13, 2025, respondent sent a letter to petitioner that the finding of an inconclusive HIB had been affirmed.

Based upon a review of the testimony and the documentary evidence presented and having had the opportunity to observe the demeanor and assess the credibility of the witnesses who testified, I **FIND** the following pertinent **FACTS** and accept as **FACT** the testimony set forth below.

On December 12, 2024, K.G. was involved in an incident with several other girls in the school gym. R-G, R-H, R-I, R-J, R-K, R-L, R-M, R-N, and R-O. During the altercation, a group of girls approached K.G. and, following an exchange of words and gestures by all parties, two other girls subsequently and separately pushed K.G. to the floor. R-G, R-H, R-I, R-J, R-K, R-L, R-M, R-N, and R-O. Following this incident, K.G. provided a Student Incident Statement regarding the event in the gym. The Student Incident Statement led to discipline being imposed by the District against various students who violated the District's code of conduct, ranging from lunch detentions all the way up to out-of-school suspensions based on varying levels of culpability.

Following K.G.'s initial statement made on the same day of the incident, on January 24, 2025, both petitioner and Principal Mendez filled out separate 338 forms to initiate a HIB investigation related to the December incident. The District also reviewed video footage of the incident, which showed some amount of the confrontation and K.G. being pushed. However, the video lacked audio and may not have captured the whole of the incident.

James Colon (Colon), assistant principal and anti-bullying coordinator, testified that the Board insisted that a HIB investigation should be initiated following an informal hearing regarding the incident that occurred on December 12, 2024. Colon found that K.G. as well as the group of girls who approached and eventually pushed K.G. appeared to be exchanging words and gestures that appeared aggressive in nature, indicating conflict rather than HIB. This was not disputed by petitioner, who admits that K.G. was also exchanging words and gestures with the other girls.

The Board did not simply accept the determination that the December 12 incident constituted conflict; the Board wanted to ensure that the incident was investigated to determine whether an act of HIB had occurred. On February 21, the Board of Education sent a letter to petitioner indicating that the District had not found evidence that K.G. had been "the target of the investigated act of harassment, intimidation or bullying." R-T. Following this letter, the Board held an appeal hearing with petitioner on March 11, 2025, and, following the executive session hearing, affirmed its initial determination that K.G. had not been the target of HIB. R-U.

J.G., on behalf of her daughter, contested the finding, stating that there was a power imbalance as it was seven against one.

I found both witnesses credible. Colon for respondent testified clearly and provided evidence through his witness statements and reports to bolster his testimony. J.G. also testified clearly about the events of the day and the effect on her daughter. The issue is not a credibility or facts issue, but what constitutes HIB.

DISCUSSION AND CONCLUSIONS OF LAW

The Anti-Bullying Bill of Rights Act (Act), N.J.S.A. 18A:37-13 et seq., is designed “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). Under the Act, “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.]

Each school district must adopt a policy that prohibits HIB and provides for a prompt response to any alleged HIB incident. N.J.S.A. 18A:37-15(a). Once an alleged HIB incident is reported to the school principal, the principal or their designee must initiate an investigation within one school day of receiving the report. N.J.S.A. 18A:37-15(b)(6)(a). A school anti-bullying specialist shall conduct the investigation, which must be completed within ten school days from the date of notification of the incident. Ibid. The results of the investigation shall then be quickly reported to the superintendent of schools, who may take certain remedial action. N.J.S.A. 18A:37-15(b)(6)(b). The results shall also be reported to the board of education "no later than the date of the board of education meeting next following the completion of the investigation, along with information on any services provided, training established, discipline imposed, or other action taken or recommended by the superintendent." N.J.S.A. 18A:37-15(b)(6)(c).

Under the Act, the parents of students involved in any alleged HIB incident are entitled to receive information about the nature and results of the investigation. N.J.S.A. 18A:37-15(b)(6)(d). Parents may request a hearing before the board, which must be held within ten days of the request. Ibid. Any hearing shall be held in executive session to protect the identity of any students involved. The board may hear from the anti-bullying specialist regarding the incident, recommendations for discipline or services, and any programs implemented to prevent such incidents. Ibid. The board must issue a decision at the first meeting after receiving the investigation report. The board may affirm, reject, or modify the superintendent's decision. The board's decision may be appealed to the Commissioner of Education. N.J.S.A. 18A:37-15(b)(6)(e).

An action by a board of education "is entitled to a presumption of correctness and will not be upset unless there is an affirmative showing that such decision was arbitrary, capricious or unreasonable." Thomas v. Morris Twp. Bd. of Educ., 89 N.J. Super. 327,

332 (App. Div. 1965), aff'd, 46 N.J. 581 (1966). The Commissioner will not substitute their judgment for that of a board of education, whose exercise of discretion may not be disturbed unless shown to be “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). Our courts have held that “[w]here there is room for two opinions, action is not arbitrary or capricious when exercised honestly and upon due consideration, even though it may be believed that an erroneous conclusion has been reached.” Bayshore Sew. Co. v. Dep’t of Env’tl. Prot., 122 N.J. Super. 184, 199 (Ch. Div. 1973), aff’d, 131 N.J. Super. 37 (App. Div. 1974). Thus, to prevail, petitioner must demonstrate that the Board acted in bad faith or in utter disregard of the circumstances before it. T.B.M. v. Moorestown Bd. of Educ., 2008 N.J. AGEN LEXIS 67 (February 6, 2008) (citing Thomas, 89 N.J. Super. at 332).

Against this backdrop, J.G. challenges respondent’s determination that on December 12, 2024, numerous students did not commit an act of HIB against K.G. First, J.G. contends that respondent erred in its determination that the December 12, 2024, incident did not constitute HIB because that determination was unsubstantiated. I disagree.

Colon conducted a thorough and prompt investigation. Colon found that K.G. as well as the group of girls who approached and eventually pushed K.G. appeared to be in a mutual confrontation constituting a conflict rather than HIB. This was not disputed by petitioner, who admits K.G. was also exchanging words and gestures with the other girls.

Petitioner does not identify what characteristic is distinguishing about K.G. beyond saying that the characteristic was the power imbalance. A power imbalance is, alone, insufficient to substantiate a finding of HIB.

As no distinguishing characteristic was identified by the District, let alone petitioner, petitioner has failed to show that the Board acted in an arbitrary, capricious, or unreasonable manner when it found that no act of HIB was committed during the December 12, 2024, incident. Further, Colon reviewed all available video footage, interviews, and reports but found no evidence of HIB between K.G. and the other students

but a clear conflict. Because the alleged incidents could not be substantiated as a HIB, I **CONCLUDE** that the actions of respondent in determining that the December 12, 2024, incident did not constitute HIB were not arbitrary, capricious, or unreasonable.

ORDER

Following my conclusions above, I **ORDER** that J.G.'s Petition of Appeal be and hereby 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.

July 13, 2026

DATE


MICHAEL R. STANZIONE, ALI

Date Received at Agency:

Date emailed to Parties:

APPENDIX

Witnesses

For petitioner:

J.G.

For respondent:

James Colon

Exhibits

For petitioner:

None

For respondent:

R-B Mendez HIB 338 Form
R-C Investigation Report 1/24/25
R-D Initial Investigation Incident #B007
R-E J.G. HIB 338 Form
R-F 12/18/24 Email Chain
R-G Victim Interview Statement—K G.
R-H Victim Incident Statement—K.G.
R-I Alleged Offender Statement—A.J.
R-J Alleged Offender Statement—M.K.
R-K Alleged Offender Statement—Z.C.
R-L Alleged Offender Statement—T.Y.
R-M Alleged Offender Statement—I.L.
R-N Alleged Offender Statement—A.T.
R-O Alleged Offender Statement—V.W.
R-P Witness Statement—I.O.
R-Q Witness Statement—A.A.

R-R Witness Statement—B.T.

R-S 1/27/25 Letter from Respondent to Petitioner regarding HIB investigation

R-T Letter from Respondent to Petitioner regarding the conclusion of the HIB investigation.

R-U 3/13/25 Letter from Respondent to Petitioner regarding the result of the appeal hearing.