

New Jersey Commissioner of Education
Final Decision

Colleen McCormick,

Petitioner,

v.

Board of Education of the Township of Wall,
Monmouth County, and Dr. Tracy Handerhan,
Superintendent,

Respondents.

The record of this matter and the Initial Decision of the Office of Administrative Law (OAL) have been reviewed and considered. The parties did not file exceptions.

Upon review, the Commissioner concurs with the Administrative Law Judge that the Wall Township Board of Education's use of elementary school teachers and "Morning Meetings" to provide a portion of the instruction required by *N.J.S.A. 18A:35-5 et seq.* and the New Jersey Student Learning Standards for Comprehensive Health and Physical Education is an appropriate use of its discretion over curriculum choices and is not arbitrary, capricious, or unreasonable.

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: October 5, 2026
Date of Mailing: October 6, 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 20779-25

AGENCY DKT. NO. 340-10/25

COLLEEN MCCORMICK,

Petitioner,

v.

TOWNSHIP OF WALL

BOARD OF EDUCATION, MONMOUTH COUNTY

AND DOCTOR TRACY HANDERHAN,

SUPERINTENDENT,

Respondent.

Colleen McCormick, petitioner, pro se

Athina L. Cornell, Esq., for respondent (Methfessel & Werbel, P.C., attorneys)

Record Closed: July 9, 2026,

Decided: August 25, 2026

BEFORE **WILLIAM T. COOPER III**, ALJ:

STATEMENT OF THE CASE

Petitioner, Colleen McCormick (petitioner), filed a petition alleging that the Wall Township Public School District Board of Education and Dr. Tracy Henderhan, Superintendent (referred to jointly as respondent or Board) are in violation of N.J.S.A. 18A:35-5 et seq. because: 1. Respondent improperly utilizes a course called “Morning Minutes” to satisfy the 150-minute weekly health and physical education requirements required under N.J.S.A. 18A:35-5 et seq. and; 2. to provide instruction for this course respondents use teachers without a health and physical education endorsement.

PROCEDURAL HISTORY

The matter was transmitted to the Office of Administrative Law, where on November 14, 2025, it was filed as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23.

The petitioner initially raised four points in support of her petition:

1. Respondent improperly utilizes a course called “Morning Minutes” to satisfy the 150-minute weekly health and physical education requirements required under N.J.S.A. 18A:35-5 et seq.
2. The “Morning Meetings” class is being taught by teachers who do not hold a health and physical education endorsement.
3. Respondent reduced physical education classes from five days a week to an A/B-day rotation in the middle school, effectively providing only 102 minutes of physical education every other week.
4. Respondent counts recess towards the 150-minute weekly health and physical education requirement.

Numerous conferences were scheduled in an effort to resolve the matter. On May 21, 2026, the parties agreed that the material facts were not in dispute and the matter could be resolved through motion practice. The parties were directed to submit a joint stipulation of material facts, and a briefing schedule was provided.

On or about May 26, 2026, the petitioner submitted an email withdrawing her claim that the respondent utilized recess to satisfy the 150-minute weekly health and physical education requirement. (P-1.) On or about June 11, 2026, respondent submitted a joint statement of material facts (C-1) and legal brief in support of its motion for summary decision.

On or about June 23, 2026, the petitioner submitted a memorandum that withdrew her claim that the respondent reduced physical education classes from five days a week to an A/B-day rotation in the middle school, effectively providing only 102 minutes of physical education every other week, and acknowledged that the material facts were not in dispute and that the matter involved legal interpretation. (P-2.) Petitioner repeated in the memorandum her disagreement that the respondent's use of "Morning Meetings" satisfied the requirements of N.J.S.A. 18A:35-5 et seq. and that the use of teachers without a health and physical education endorsement was inappropriate. However, the memorandum offered no legal or factual arguments in support of these positions.

FACTUAL DISCUSSION

Based upon the joint stipulation of facts and pleadings submitted by the parties, I **FIND** as **FACTS** the following:

The New Jersey Student Learning Standards for Comprehensive Health and Physical Education (NJSLS-CHPE) provides that a quality comprehensive program addresses mental health awareness, social and emotional support systems, the influence of media, peers, technology, and cultural norms in making informed health-related decisions, cross-cultural communication and conflict resolution skills, the maintenance of healthy relationships, respect of individual and cultural differences, national and global public health, and climate change. See <https://www.nj.gov/education/standards/chp/>.

According to the New Jersey Department of Education's (NJDOE) website, the vision for the NJSLS-CHPE is that a quality comprehensive health and physical education program fosters a population that:

- Maintains mental health awareness and relies on social/emotional support systems;
- Engages in a physically active lifestyle;
- Maintains awareness of health and wellness and how to access resources;
- Recognizes the influence of media, peers, technology, and cultural norms in making informed health-related decisions as a consumer of health products and wellness services;
- Practices effective cross-cultural communication and conflict resolution skills;
- Builds and maintains healthy relationships;
- Accepts and respects individual and cultural differences; and
- Advocates for personal, family, community, and global wellness and is aware of local, national and global public health and climate change.

[See <https://www.nj.gov/education/standards/chp/>]

The petitioner has two students in the Board's elementary schools.

The Board's schedule for elementary school provides 150 minutes per week of health safety and physical education: two thirty-eight-minute periods of physical education/health class per week and fifteen minutes of Morning Meetings daily.

There is no subject-specific teaching certification required by the NJDOE for elementary school teachers K-6.

At a Board meeting convened on May 20, 2025, the Board entertained the feedback of parents, students, and other residents relating to the proposed schedule. In addition, a schedule graphic reflecting the proposed schedule was shared with meeting attendees.

The revised schedule at issue has been implemented in the Board's district effective September 2025.

"7 Mindsets" is a resource material utilized by teachers, among other resource materials.¹

Among other standards, teachers address the following topics with K-5 students during the Morning Meetings:

1. Explain the meaning of character and how it is reflected in the thoughts, feelings, and actions of oneself and others;
2. Identify what it means to be responsible and list personal responsibilities;
3. Demonstrate self-control in a variety of settings (e.g. classrooms, playgrounds, special programs);
4. Demonstrate strategies for managing one's own emotions, thoughts and behaviors;
5. Explain healthy ways of coping;
6. Demonstrate healthy ways to respond to disagreements or conflicts with others (e.g. leave, talk to trusted adults, tell a sibling or peer);
7. Define bullying and teasing and explain why they are wrong and harmful;
8. Demonstrate kindness towards self and others during physical activity to create a safe and caring environment;
9. Identify trusted adults, including family members, caregivers and school staff, that you can talk to about situations which may be uncomfortable or dangerous (e.g. bullying, teasing, child sexual abuse);
10. Discuss the Impact of one's feelings and thoughts that lead to healthy and unhealthy behaviors;
11. Explain how to cope with rejection, loss, difficult learning situations and/or separation from family or others;

¹ "7 Mindsets" is a framework of beliefs and attitudes that fosters personal growth, resilience, and success, particularly in educational settings.

12. Identify different feelings and emotions that people may experience and how they might express these emotions (e.g. anger, fear, happiness, sadness, hopelessness, anxiety);
13. Identify behaviors that help to deal with difficult situations that can occur at home, in school and/or in the community and where to go for assistance.

The NJDOE permits local school districts to choose their own curriculum and resource materials.

At all elementary schools in the Board's district, students receive twenty minutes of recess daily either before or after lunch.

POSITIONS OF THE PARTIES

The petitioner acknowledges that the issues before this tribunal are "primarily legal in nature and therefore may be resolved on the existing record." (P-2.) Further, the petitioner "continues to disagree with the respondent's interpretation of N.J.S.A. 18A:35-5 et. seq. and continues to have concerns regarding whether Morning Meetings constitutes health, safety, and physical education instruction within the meaning of the statute and whether the instruction being counted toward the statutory requirement satisfies the legislatures intent regarding instruction by qualified personnel." (P-2.) The petitioner offers no authority in support of her position beyond this general objection.

The respondent agrees that the relevant material facts are not in dispute and asserts that it is entitled to summary decision because it is following N.J.S.A. 18A:35-5 et seq. The respondent maintains that in anticipation of the 2025–2026 school year, Board personnel re-examined course schedules with the goal of finding additional instructional opportunities within the school day for teachers to address reading, writing, and mathematics, as well as the mental health needs of students. Having reviewed the schedules for the prior school year, the Board determined that it could provide students with additional instructional time and better meet student needs while continuing to meet the learning standards of the NJSLs-CHPE. Revisions to the elementary school schedule effective September 2025 were to provide 150 minutes per week of health, safety and

physical education: two thirty-eight-minute periods of Health and Physical Education class for a total of seventy-six minutes per week and fifteen minutes of Morning Meeting daily for a total of seventy-five minutes per week (combining for a total of 151 minutes per week). Respondent asserts that Morning Meetings adheres to the NJSLS-CHPE and are provided by appropriately certified personnel. Respondent avers that there is no subject-specific teaching certification required by the NJDOE for elementary school teachers, K-6. The elementary school start time is 9:05 a.m. each day, and the students may proceed immediately into Morning Meetings subject to the classroom schedule.

LEGAL ANALYSIS AND CONCLUSIONS

Summary Decision

The petitioner and the Board each seek summary decision. Under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, “[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). Such motion “shall be served with briefs and with or without supporting affidavits,” and “[t]he 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). When the motion “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.

The standard governing agency determinations under N.J.A.C. 1:1-12.5 is “substantially the same as that governing a motion under Rule 4:46-2 for summary judgment in civil litigation.” L.A. v. Bd. of Educ. of Trenton, 221 N.J. 192, 203 (2015) (citing Contini v. Bd. of Educ. of Newark, 286 N.J. Super. 106, 121–22 (App. Div. 1995) (citations omitted), certif. denied, 145 N.J. 372 (1996)). “In other words, a court must ascertain ‘whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party in consideration of the applicable evidentiary standard, are sufficient to permit a rational factfinder to resolve the alleged disputed issue

in favor of the non-moving party.” Id. at 204 (quoting Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995)); see also Contini, 286 N.J. Super. at 121–22.

Here, the facts are undisputed by the petitioner and respondent. It is the conclusion to be drawn from these facts that is the issue to be determined here, i.e., whether Morning Meetings constitutes health, safety, and physical education instruction within the meaning of the statute and whether the instruction being counted toward the statutory requirement satisfies the Legislature’s intent regarding instruction by qualified personnel.

Therefore, I **CONCLUDE** that the matter is ripe for summary decision.

In this matter, the petitioner has made no specific claim of a violation of any statute, any rule of the State Board of Education, or any rule adopted by the respondent; neither has she claimed any bias or prejudice on the part of respondent in the selection or use of “7 Mindsets” to meet the standards of the NJSLS-CHPE. Rather, she broadly argues that elementary school teachers are without a physical education endorsement and as such are not qualified to instruct physical education courses and that she disagrees with the respondent’s use of “Morning Meetings” to meet the requirements mandated under the NJSLS-CHPE. These arguments are unconvincing.

The following statutes are applicable to this matter:

N.J.S.A. 18A:35-5. “Maintenance of physical training courses,” provides:

Each board of education shall conduct as a part of the instruction in the public schools’ courses in health, safety and physical education, which courses shall be adapted to the ages and capabilities of the pupils in the several grades and departments. To promote the aims of these courses any additional requirements or rules as to medical inspection of school children may be imposed.

N.J.S.A. 18A:35-5.2. “Curriculum guidelines, availability, incorporation, consultation,” provides in part:

a. The commissioner shall make the curriculum guidelines available to all school districts in the State.

b. A board of education shall incorporate the curriculum guidelines developed pursuant to section 1 of P.L.1991, c.488 (C.18A:35-5.1) in an appropriate place in the curriculum of students in grades kindergarten through 12 as part of the school district's implementation of the New Jersey Student Learning Standards in Comprehensive Health and Physical Education.

c. A board of education shall also consult resources from multiple nationally-recognized organizations with expertise in Lyme disease or other tick-borne diseases in fulfilling the requirements of subsection b. of this section.

N.J.S.A. 18A:35-8. "Time devoted to course," provides:

The time devoted to such courses shall aggregate at least two and one-half hours in each school week, or proportionately less when holidays fall within the week.

N.J.S.A. 18A:35-9. "Qualifications of teachers; instruction of college pupils," provides:

The state board shall adopt rules fixing the necessary qualifications of teachers in such courses in the public school system and all students at the state colleges shall be required to receive thorough instruction in such courses.

The first issue to be addressed is whether elementary teachers are qualified to instruct elementary students in the "Morning Meetings."

There is no subject-specific teaching certificate required by the DOE for elementary school teachers. The Teacher of Elementary School K-6 Certificate of Eligibility (Endorsement Code: 1001) provides that the holder of the endorsement is authorized as follows:

- Serve as an elementary school teacher in grades kindergarten through six in all public schools
- Teach language arts literacy, mathematics, science and social studies full-time in grades kindergarten through six
- Teach world languages full-time in grades kindergarten through six pursuant to N.J.A.C 6A:9B-10.5
- Teach no more than one-half of the daily instructional assignments remaining subjects
- Teach reading, writing, arithmetic, and spelling, for basic skills purposes only, in grades six through 12

Further, the certificate of eligibility for elementary school teachers allows them to teach all subjects, no more than one-half of the daily instructional assignment. See Endorsement Code: 1001. (R-1 exhibit B). The NJSLS-CHPE were revised to ensure students are not only provided with a sufficient physical education curriculum but also to address **the need for students to gain knowledge and skills in caring for themselves, interact effectively with others, and analyze the impact of choices and consequences**. These non-physical education topics are covered through the use of the “7 Mindsets” instruction taught during the “Morning Meetings.”

Accordingly, I **CONCLUDE** that respondent’s elementary teachers are qualified to instruct elementary students in the “Morning Meetings.”

The second issue to be addressed is whether the respondent is permitted to use “Morning Meetings” to meet the requirements mandated under the NJSLS-CHPE.

Local school boards have a duty to enforce rules promulgated by the State Board of Education. N.J.S.A. 18A:11-1. They have also been granted broad discretion over their curriculum choices by the Legislature. The selection and use of “7 Mindsets” to meet the standards of the NJSLS-CHPE falls squarely within the discretionary powers of the respondent. An action of a local board of education which lies within the area of its discretionary powers may not be upset unless patently arbitrary, without rational basis, or induced by improper motives. See Kopera v. W. Orange Bd. of Educ., 60 N.J. Super. 288, 294 (App. Div. 1960); Parsippany-Troy Hills Educ. Ass’n v. Parsippany-Troy Hills Bd. of Educ., 188 N.J. Super. 161, 166 (1983).

A review of the topics covered by the elementary teachers during the “Morning Meetings” through the use of “7 Mindsets” reveals a curriculum designed to address the standards outlined in the NJSLS-CHPE. Those standards seek to address the following: mental health awareness, social and emotional support systems, the influence of media, peers, technology, and cultural norms in making informed health-related decisions, cross-cultural communication and conflict resolution skills, the maintenance of healthy relationships, respect of individual and cultural differences, national and global public health, and climate change. The “Morning Meetings” are an appropriate course in which respondent addresses these topics.

The petitioner has failed to raise any valid argument that would support the conclusion that the respondent abused its discretionary powers in an arbitrary or irrational fashion in the use of “Morning Minutes.”

Accordingly, **I CONCLUDE** that the use of “Morning Meetings” complies with the standards outlined in the NJSLS-CHPE.

ORDER

It is hereby **ORDERED** that the respondent’s motion for summary decision is **GRANTED** and the petition is **DISMISSED**.

I hereby **FILE** this initial decision with the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** for consideration.

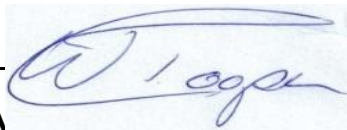
This recommended decision may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who by law is authorized to make a final decision in this matter. If the Acting Commissioner of the Department of Education does not adopt, modify, or reject this decision within forty-five 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.

August 25, 2026

DATE

WILLIA



Date Received at Agency:

Date E-Mailed to Parties:

APPENDIX

Exhibits

For the Tribunal:

C-1 Joint Stipulation of Facts, with attached exhibits

For petitioner:

P-1 May 26, 2026, withdrawal of claim that recess was used to satisfy the
NJSLS-CHPE

P-2 June 23, 2026, submission in response to motion and withdrawing claims
relating to middle school students

For respondent:

R-1 Motion for Summary Decision