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OAL Dkt. No. EDU 03654025
Agency Dkt. No. 28-1/25

New Jersey Commissioner of Education
Final Decision

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

Petitioner,

v.

Board of Education of the Township of
Parsippany-Troy Hills, Morris County,

Respondent.

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

This matter concerns petitioner's request for aid in lieu of transportation for the 2024-2025 school year. *N.J.S.A. 18A:39-1* provides, in relevant part, that "[w]hen any school district provides any transportation for public school pupils to and from school pursuant to this section, transportation shall be supplied to school pupils residing in such school district in going to and from any remote school other than a public school . . . located within the State not more than 20 miles from the residence of the pupil." However, if the Board would have to establish a new route for such transportation, then "in lieu thereof" the parent or guardian shall be eligible for financial aid in lieu of transportation calculated per the statute's requirements. *Ibid.*

At the heart of this dispute is whether the private school K.K. attends is located not more than 20 miles from her residence in Parsippany. *N.J.A.C. 6A:27-1.3(a)(1)(ii)* provides that, for purposes of determining eligibility for student transportation, “[d]istance shall be measured using the shortest route along public roadways or public walkways between the entrance of the student’s residence nearest the public roadway and public walkway and the nearest public entrance of the school the student attends.”

The Board contends that K.K. resides more than 20 miles from her school and, consequently, denied petitioner’s request for aid in lieu of transportation. Per Board policy, it initially calculated the walking distance between the residence and the school using Google Maps and determined that it was between 21 and 24.7 miles.

Petitioner relies upon a Google Maps printout and a survey which he provided to the Board. The Google Maps printout states that the distance between the residence and K.K.’s school is 19.9 miles, while the survey states that the distance between the residence and K.K.’s school is 19.7 miles.

As part of its opposition to petitioner’s motion for summary decision, the Board supplied a certification from its transportation supervisor indicating that she personally drove along the Google Maps route provided by petitioner and that it was longer than 20 miles. The Board also attempted to measure driving distance using Google Maps, which produced three routes all over 20 miles, and could not recreate petitioner’s Google Maps printout.

The ALJ granted petitioner’s motion for summary decision based upon a finding that the survey, consistent with the requirements of *N.J.A.C. 6A:27-1.3(a)(1)(ii)*, “measures the shortest distance utilizing public roadways and walkways [between] the student’s home and the nearest

public entrance to the school.” Initial Decision at 3. The ALJ further found that because “the Board did not consider public roadways,” its “method of measurement is not entitled to deference.” *Id.* at 6. Ultimately, because the survey indicated the distance was under 20 miles, the ALJ concluded that petitioner was entitled to aid in lieu of transportation from the Board. Additionally, the ALJ rejected the Board’s claim that the petition was untimely filed.

In its exceptions, the Board argues: (1) there is a genuine issue of material fact relative to the accuracy of petitioner’s Google Maps printout and survey as the Board was unable to substantiate that the distance at issue was under 20 miles; (2) the ALJ’s determination that the Board failed to consider public roadways is not supported by the record; (3) the ALJ did not apply the correct standard of review and substituted his judgment for the Board’s; and (4) the ALJ should have determined that the petition was time-barred.

In response, petitioner argues that: (1) summary decision was appropriate because the undisputed facts establish that the shortest route between the residence and K.K.’s school along public roadways is under 20 miles; (2) the Board’s methods of calculating the route did not comport with the requirements of *N.J.A.C. 6A:27-1.3(a)(1)(ii)*; (3) the ALJ correctly applied the law and the decision is supported by the record; and (4) the petition was timely filed within 90 days of the November 4, 2024, final decision of the Board.

Upon review, the Commissioner is constrained to remand the matter to the OAL for further proceedings. At the outset, the Commissioner agrees with the ALJ that the petition was timely filed; the ALJ properly rejected the Board’s argument that its final decision was issued in August 2024 and not November 2024. However, a remand is warranted because this matter is not ripe for summary decision. It is clear from the record before the Commissioner that a genuine

issue of material fact exists regarding the measurement of the shortest distance between the residence and K.K.'s school, consistent with *N.J.A.C. 6A:27-1.3(a)(1)(ii)*.

Summary decision “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)*; *In re Young*, 471 *N.J. Super.* 169, 177 (App. Div. 2022). “If there exists a single, unavoidable resolution of the alleged disputed issue of fact, that issue should be considered insufficient to constitute a ‘genuine’ issue of material fact” *Brill v. Guardian Life Ins. Co. of Am.*, 142 *N.J.* 520, 540 (1995).

The Commissioner disagrees with the ALJ that petitioner’s survey provides a single, unavoidable resolution of the alleged disputed issue of fact—in this case, measurement of the shortest distance between the residence and K.K.’s school, consistent with *N.J.A.C. 6A:27-1.3(a)(1)(ii)*. For instance, without testimony or an explanatory certification from the surveyor, it cannot be determined whether the survey began at the entrance to the residence (as opposed to curbside) and ended at the nearest public entrance to the school in accordance *N.J.A.C. 6A:27-1.3(a)(1)(ii)*. The same is true regarding the competing Google Maps documents relied upon by both parties.

Case law instructs that these details are necessary for proper determination of the shortest distance between the residence and the school. *See, e.g., Nelson v. Bd. of Educ. of Glen Ridge*, 246 *N.J. Super.* 467, 470-72 (App. Div. 1991) (holding that driveways from public roadways to entrances must be included in measuring the distance between the pupil’s residence and school). It cannot be determined from the limited information in the record whether the survey

upon which the ALJ relied accurately measured the shortest distance between the residence and the school consistent with the requirements of *N.J.A.C. 6A:27-1.3(a)(1)(ii)* and controlling case law. Thus, the ALJ's reliance on the survey as the single, unavoidable resolution of the disputed factual issue regarding the distance measurement is not adequately supported by the record.

Accordingly, the matter is remanded to the OAL for further proceedings consistent with this decision.

IT IS SO ORDERED.



COMMISSIONER OF EDUCATION

Date of Decision: February 26, 2026
Date of Mailing: February 26, 2026



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDU 03654-25

AGENCY DKT. NO. 28-1/25

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

Petitioner,

v.

**BOARD OF EDUCATION OF THE
TOWNSHIP OF PARSIPPANY-TROY
HILLS, MORRIS COUNTY,**

Respondent.

John D. Coyle, Esq., petitioner (Coyle Law Group, attorneys.)

Allison L. Kenny, Esq. for respondent (Schenck, Price, Smith & King, attorneys)

Record Closed: July 2, 2025

Decided: December 8, 2025

BEFORE: **AURELIO VINCITORE, ALJ**

STATEMENT OF THE CASE

Petitioner, J.K., father of K.K., lives within 20 miles from her school. Is J.K. entitled to aid in lieu of transportation? Yes. Students who live within 20 miles from a non-public, remote school are entitled to aid in lieu of transportation. N.J.S.A. 18A:39-1.

PROCEDURAL HISTORY

On August 1, 2024, respondent, Township of Parsippany-Troy Hills Board of Education (Board), sent J.K. a letter informing him that his daughter was being denied aid in lieu of transportation due to living more than 20 miles from home to school. On September 6, 2024, J.K. sent a printout from Google Maps challenging the distance calculation by the Board. The printout states that petitioner lives 19.9 miles from home to school.

On October 1, 2024, J.K. sent a survey from a New Jersey licensed surveyor, Brevard Surveying & Mapping, LLC, to the Board.

On November 4, 2024, the Board sent a final decision denying aid in lieu of transportation.

On January 31, 2025, J.K. appealed the Board's decision to Department of Education.

On February 24, 2025 the Department of Education transmitted the appeal to the Office of Administrative Law as a contested matter 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 March 26, 2025, and April 29, 2025, the parties participated in prehearing teleconferences.

On June 3, 2025, petitioner filed his motion for summary decision. On June 23, 2025, the Board filed its opposition and cross-motion for summary decision. On July 2, 2025, petitioner filed his response.

FINDINGS OF FACT

Based on the documents submitted in support of and in opposition to the motion for summary decision, and when viewed in the light most favorable to the non-moving party, I **FIND** the following as **FACT** for purposes of this motion only:

1. Petitioner, J.K., has a daughter named, K.K., and they reside in Parsippany, New Jersey.
2. K.K. attends Eastern Christian Upper Elementary & Middle School located at 518 Sicomac Avenue, Wyckoff, NJ 07481.
3. K.K. lives more than two miles away from Eastern Christian Upper Elementary & Middle School.
4. On August 1, 2024, Tiffany Pizza-Hiltz sent a letter to J.K. stating that aid in lieu of transportation was denied.
5. A Google Maps printout to the Board shows a distance of 19.9 miles from home to school.
6. A survey by licensed surveyor Brevard Surveying & Mapping, LLC, shows a distance of 19.7 miles. This survey measures the shortest distance utilizing public roadways and walkways the student's home and the nearest public entrance to the school.
7. A Google Maps printout using walking distance only shows that the distance between home and school is 21-24.7 miles.
8. On November 4, 2024, Board attorney, Katharine Gilfillan sent a letter to J.K. stating the Board's final decision to deny aid in lieu of transportation.
9. Tiffany Pizza-Hiltz, respondent's transportation supervisor, certifies that the driving distance between petitioner's home and school is greater than 20 miles.

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 must be served with briefs and may be served with supporting affidavits. Under N.J.A.C. 1:1-12.5(b), “[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.”

To determine whether a genuine issue of material fact exists that precludes summary judgment, the motion judge must consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to demonstrate that the moving party is entitled to a judgment as a matter of law. Brill v. Guardian Life Ins., 142 N.J. 520, 540 (1995). To avoid entry of summary judgment, the non-moving party must come forward with legally competent facts essential to proving an element of its cause of action. Ibid. at 536-537. If non-movant fails to do so, the moving party is entitled to summary judgment. Ibid.

Petitioner’s Motion for Summary Decision

Students who live within 20 miles from a non-public, remote school are entitled to aid in lieu of transportation. N.J.S.A. 18A:39-1. In this case, J.K. has provided both a Google Maps printout showing a distance from home to Eastern Christian Upper Elementary & Middle School of 19.9 miles. J.K. also provided a survey conducted by licensed surveyor Brevard Surveying & Mapping, LLC, showing a distance of 19.7 miles.

The Board, on the other hand, has provided a Google Maps printout exclusively using walking distance that reflects 21 to 24.7 miles between J.K.’s home and Eastern Christian Upper Elementary & Middle School. The Board also provided a certification from

Transportation Supervisor Tiffany Pizza-Hiltz stating that she attempted to drive the Google Maps route provided by petitioner and that it measured over 20 miles.

The dispute between the parties is over how that distance was measured. Petitioner argues that Route 80 cannot be traversed by foot and that failing to utilize Route 80 lengthens the walk. The Board cites Parsippany-Troy Hills Township's Parent Guide to Transportation as to policy on the exclusive use of Google Maps walking distance.

Fortunately, a regulation, N.J.A.C. 6A:27-1.3(a)(1)(ii), provides guidance about how to calculate such distances: "[D]istance shall be measured using the shortest route along public roadways or public walkways between the entrance of the student's residence nearest the public roadway or public walkway and the nearest public entrance of the school the student attends." Since the distance between petitioner's residence and the nearest public entrance to the school must be measured using the shortest route accessing the nearest public roadways or public walkways under N.J.A.C. 6A:27-1.3(a)(1)(ii), and the licensed surveyor's distance calculation, which uses public roadways and public walkways, is 19.7 miles, that it is the distance from home to school for purposes of transportation in this case. Therefore, I **CONCLUDE** that petitioner is entitled to aid in lieu of transportation under N.J.S.A. 18A:39-1.

Respondent's Cross-Motion for Summary Decision

In their cross-motion for summary decision, the Board claims that J.K's petition is time-barred. The regulation concerning appeals is N.J.A.C. 6A:3-1.3(i). The regulation states that petitioners must file their petitions no later than the 90th date from the date of final action by a board:

Filing and service of petition of appeal - The petitioner shall file a petition *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 shall not apply in instances where a specific statute,

regulation, or court order provides for a period of limitation shorter than 90 days for the filing of a particular type of appeal.

The Board argues that the August 1, 2024, letter from Pizza-Hilitz to J.K. constituted the Board's final decision on aid in lieu of transportation for J.K.'s daughter K.K. However, this argument is belied by the language in the November 4, 2024 letter from Board attorney Gilfillan to J.K. in which states, "this matter has been considered by the Superintendent and this decision is the District's final decision.." Therefore, I **CONCLUDE** that that District's final decision was rendered on November 4, 2024, and that J.K. filed the appeal with the Commissioner of Education on January 31, 2025, which is before the expiration of 90 days.

The Board's citation of an unpublished Appellate Division decision regarding the strict construction of the 90-day rule and a district's adoption of a student uniform policy in Coles v. Bayonne Bd. of Educ., No. A- 4642-06T1, 2008, N.J. Super. Unpub. is inapplicable and unpersuasive because in that case, the appellants did not offer a reasonable excuse for their delay. In this case, there was no such delay. Thus, the case is inapposite.

The Board's assertion that its method of measurement is entitled to deference is also inapposite. This method of measurement, Google Maps walking distance, contravenes the express language of the controlling New Jersey Administrative Code section. Under N.J.A.C. 6A:27-1.3(a)(1)(ii), "distance shall be measured using the shortest route along public roadways or public walkways between the entrance of the student's residence nearest the public roadway or public walkway and the nearest public entrance of the school the student attends." The Board must consider the shortest route using both public roadways and walkways. That is not a matter left to the discretion of the Board. Since the Board did not consider public roadways, the Board's method of measurement is not entitled to deference.

ORDER

Given my findings of fact and conclusions of law, J.K's motion for summary decision is **GRANTED**, and the Board's cross-motion for summary decision is **DENIED**.

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 case. 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 becomes 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.

December 8, 2025

DATE



AURELIO VINCITORE, ALJ

Date Received at Agency:

12/8/25

Date Mailed to Parties:

12/8/25

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