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OAL Dkt. No. EDU 19269-25
Agency Dkt. No. 404-11/25

New Jersey Commissioner of Education
Final Decision

A.G., on behalf of minor child, L.G.,

Petitioner,

v.

Board of Education of the Township of West
Milford, Passaic County,

Respondent.

The record of this matter, the Order Denying Emergent Relief of the Office of Administrative Law (OAL), the exceptions filed by petitioner pursuant to *N.J.A.C. 1:1-18.4*, and the reply thereto by the West Milford Board of Education (Board) have been reviewed and considered.¹

In 2023, petitioner's child, L.G., was suspended after he was found using a vaping device in a bathroom at school. The Board sent petitioner a letter regarding the suspension on December 18, 2023. Petitioner challenged the suspension, and the case was settled in 2024. *A.G. o/b/o L.G. v. BOE Twp. of West Milford*, Commissioner Decision No. 240-25 (June 24, 2024). On

¹ Upon review of the Order entered in this matter, the Commissioner determined that it was fully dispositive of all issues in the case, and should therefore be treated as an Initial Decision, pursuant to *N.J.A.C. 1:1-18.1(b)*. The Office of Controversies and Disputes notified the parties of this determination and accepted the submission of petitioner's exceptions and the Board's reply.

November 24, 2025, petitioner filed the petition of appeal and motion for emergent relief at issue in this matter, seeking the removal of the December 18, 2023 letter from L.G.'s student record.

The Administrative Law Judge (ALJ) found that the petition was untimely pursuant to *N.J.A.C. 6A:3-1.3(i)* because it was filed more than 90 days after petitioner received the letter in December 2023. The ALJ further noted that petitioner had received a second copy of the letter in May 2025, as part of discovery in separate litigation, and that the November 2025 petition was filed more than 90 days after that date. Accordingly, the ALJ denied petitioner's motion for emergent relief and dismissed the petition.

In his exceptions, petitioner argues that the maintenance of L.G.'s record is a continuing administrative act, and that the ALJ therefore misapplied the 90-day statute of limitations. According to petitioner, the ALJ erroneously conflated the contents of L.G.'s student record with the disciplinary action taken against him. Petitioner also contends that the timeline should be tolled because the ALJ did not consider continuing harm or fundamental fairness.

In response, the Board argues that the ALJ correctly determined that the petition was untimely and that there was no basis to relax the deadline. The Board notes that petitioner failed to comply with the 90-day deadline twice, both after the letter was initially sent and again after it was reproduced in discovery, and argues that petitioner's continuing violation theory is inapplicable to this matter. The Board also contends that the relief petitioner seeks is barred by the settlement of the prior challenge to L.G.'s suspension, by which petitioner waived any claims that could have been raised in that action.

Upon review, the Commissioner concurs with the ALJ that the petition of appeal is untimely. Petitioner became aware of the existence of the December 18, 2023 letter when he

originally received it. His November 2025 petition of appeal was therefore well out of time pursuant to *N.J.A.C. 6A:3-1.3(i)*. Even if petitioner believed that the 2024 settlement agreement would result in the removal of the suspension letter from L.G.'s student record,² he became aware in May 2025 that the letter was still in L.G.'s record. Despite clearly being on notice at that time, petitioner waited more than 90 days and did not file the petition in this matter until November 2025, again out of time.

The Commissioner rejects petitioner's continuing violation theory. The issuance of a letter is a fixed occurrence, which is not changed by the fact that the letter remains in a particular file. In an analogous context, the Commissioner has previously found that a petition seeking to change a student's grade was untimely when it was filed more than 90 days after the grade was given. *C.F. o/b/o C.F. v. BOE Twp. of Jackson*, Commissioner Decision No. 317-25 (June 23, 2025). The fact that the student's grade remained as part of his transcript did not alter the outcome.

Furthermore, the Commissioner concludes that any claims related to the letter could have been raised in the prior litigation, such that the relief petitioner is now seeking is barred by his waiver of those claims in the prior settlement agreement. Indeed, in appeals related to student discipline, when the Commissioner overturns a disciplinary decision, the district is generally ordered to remove all related records from the student's file. *See, e.g., K.F. o/b/o M.F. v. BOE Twp. of Cherry Hill*, Commissioner Decision No. 556-25 (Dec. 12, 2025). Petitioner could have pursued his petition until he received a final decision to see if he would be successful in having

² It would be unreasonable for petitioner to believe such an action would occur, as the settlement agreement does not require it. Additionally, the Board did not agree in the settlement that the suspension itself, or the finding that L.G. tested positive for a controlled dangerous substance, would be reversed.

the suspension overturned and the records expunged from L.G.'s student record. He also could have attempted to negotiate for the reversal of the Board's suspension decision and/or the removal of the December 18, 2023 letter from L.G.'s student record as part of the settlement agreement entered into by the parties. Whether petitioner failed to do so or the Board would not accept those terms is irrelevant – the fact remains that the claims could have been raised in the prior litigation, and petitioner expressly waived those claims in the settlement agreement.

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.³



COMMISSIONER OF EDUCATION

Date of Decision: March 16, 2026
Date of Mailing: March 16, 2026

³ 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

ORDER DENYING

EMERGENCY RELIEF

OAL DKT. NO. EDU 19269-25

AGENCY DKT. NO. 404-11/25

A.G. ON BEHALF OF MINOR

CHILD L.G.,

Petitioners,

v.

BOARD OF EDUCATION OF THE

TOWNSHIP OF WEST MILFORD,

PASSAIC COUNTY,

Respondent.

A.G., on behalf of **L.G.**, petitioner, pro se

Kevin Cuddihy, Esq., for respondent (Scarinci Hollenbeck, attorneys)

BEFORE **AURELIO VINCITORE**, ALJ:

STATEMENT OF THE CASE

On May 7, 2025, petitioner, A.G., on behalf of L.G., a student at West Milford Township high school, received notice of the school board's final decision on discipline pertaining to the violation of school policy. On November 24, 2025, petitioner appealed. Is the appeal time-barred? Yes. Under N.J.A.C. 6A:3-1.3(i) all parties who wish to the

appeal a final decision must file an appeal with the Commissioner of Education within 90 days.

PROCEDURAL HISTORY

On December 18, 2023, respondent, West Milford Township Board of Education (West Milford), sent L.G.'s parents a letter stating that L.G. was suspended.

During the month of March 2024, A.G., on behalf of his son, filed an application with the Department of Education, Bureau of Controversies and Disputes, for emergent relief seeking L.G.'s immediate return to school.

On April 1, 2024, the parties settled the case.

On November 24, 2025, A.G., on behalf of L.G., filed a petition of appeal with the Commissioner of Education seeking the removal of the December 18, 2023 letter as part of the student record.

On November 26, 2025, the Department of Education, Bureau of Appeal and Controversies, transmitted the case to the Office of Administrative Law as an emergent contested case.

On December 11, 2025, I heard argument and kept the record open for one day so A.G. could submit documents referenced during oral arguments.

FINDINGS OF FACT

Based on the documents the parties submitted in support of and in opposition to the motion for emergent relief, I **FIND** the following as **FACT** for purposes of this motion only:

1. On December 14, 2023, L.G. used a vaping device in the restroom at school.

2. The vaping device was confiscated and L.G. was required to submit to a medical examination to confirm whether he was under the influence of drugs.
3. L.G. returned to school with only a doctor's note stating that he could return to school.
4. On December 18, 2023, West Milford sent L.G.'s parents a letter stating that L.G. was suspended.
5. On February 26, 2024, the suspension took effect and L.G. was placed on home instruction.
6. During the month of March 2024, A.G., on behalf of his son, applied for emergent relief seeking L.G.'s immediate return to school.
7. On April 1, 2024, the parties settled the case.
8. On May 7, 2025, as part of discovery in a separate case, West Milford sent A.G. the same December 18, 2023, student record stating that he was suspended and the basis for that suspension.
9. On November 24, 2025, A.G. filed this application for emergent relief to remove the letter from L.G.s student record.

CONCLUSIONS OF LAW

Petitioners must file an appeal 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 that is the subject of the requested contested case hearing. N.J.A.C. 6A:3-1.3(i). This 90-day filing rule is most often examined under the lens of the decision in Kaprow v. Bd. of Educ. of Berkeley Twp., 131 N.J. 572 (1993). The 90-day limitation period “represents a fair

and reasonably necessary requirement for the proper and efficient resolution of disputes under the school laws.” Kaprow, 131 N.J. at 582.

In this case, A.G. knew the final action regarding the suspension on December 18, 2023, when West Milford sent A.G. the letter suspending L.G., and again on May 7, 2025, when West Milford provided that letter as part of discovery in a separate case. November 24, 2025, the date A.G. filed his appeal of the suspension record, is more than 90 days from both December 18, 2023, and May 7, 2025. Therefore, I **CONCLUDE** that petitioners filed this appeal out of time in violation of N.J.A.C. 6A:3-1.3(i), and that this case is time-barred.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that petitioner’s appeal is **TIME-BARRED** under N.J.A.C. 6A:3-1.3(i), that petitioner’s application of emergent relief is **DENIED**, and that this case is **DISMISSED**.

This order on application for emergency relief may be adopted, modified, or rejected by the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION**, who is authorized by law to make the final decision in this case. The final decision shall be issued without delay but no later than forty-five days from the entry of this order. If the **COMMISSIONER OF THE DEPARTMENT OF EDUCATION** does not adopt, modify, or reject this order within those forty-five days, this recommended order shall become the final decision on the issue of emergency relief under N.J.S.A. 52:14B-10.

December 16, 2025

DATE



AURELIO VINCITORE, ALJ

id

