

New Jersey Commissioner of Education
Final Decision

M.M., on behalf of minor child,

Petitioner,

v.

Board of Education of the Township of
Lafayette, Sussex County,

Respondent.

Synopsis

Petitioner appealed the finding of the respondent Board's Anti-Bullying Coordinator (ABC) that her son was not the victim of harassment, intimidation and bullying (HIB) pursuant to the Anti-Bullying Bill of Rights Act (Act), *N.J.S.A. 18A:37-13 et seq.* Petitioner was given the opportunity to contest the ABC's HIB findings in a hearing before the Board and was offered two options on how to proceed in light of the COVID-19 epidemic. Petitioner chose instead to file the within petition, challenging the ABC's findings and arguing that the district has violated the Act and the Family Educational Rights and Privacy Act (FERPA) by refusing to provide access to and copies of video recordings showing the events at issue. The Board filed a motion to dismiss, contending that petitioner failed to exhaust her administrative remedies by not pursuing the required appeal at the Board level.

The ALJ found, *inter alia*, that: there are no genuine issues of material fact here, and the Board is entitled to prevail as a matter of law because petitioner failed to avail herself of a Board-level hearing before appealing to the Commissioner; the district has substantially complied with petitioner's FERPA request for access to the video recordings; and, further, FERPA does not require the Board to provide copies of the videos. The ALJ concluded that the petitioner's appeal before the Commissioner is not ripe; accordingly, summary decision was granted to the Board as a matter of law, and the petition was dismissed.

Upon a comprehensive review, the Commissioner, *inter alia*, concurred with the ALJ that petitioner's claim regarding the district's HIB decision is not ripe for review because the statutory procedures outlined in the Act have not been completed. Having found petitioner's exceptions to be without merit, the Commissioner adopted the Initial Decision of the OAL as the final decision in this matter. The petition was dismissed with instruction that the matter shall proceed at the local level before the Board, and that, if and when the petitioner disagrees with the Board's decision following that hearing, a new petition of appeal may be filed with the Commissioner. The instant petition was dismissed.

<p>This synopsis is not part of the Commissioner's decision. It has been prepared for the convenience of the reader. It has been neither reviewed nor approved by the Commissioner.</p>

November 5, 2020

253-20

OAL Dkt. No. EDU 05225-20

Agency Dkt. No. 94-5/20

New Jersey Commissioner of Education

Final Decision

M.M., on behalf of minor child,

Petitioner,

v.

Board of Education of the Township of
Lafayette, Sussex 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 reply thereto by the Board have been reviewed and considered.¹

This matter involves allegations of harassment, intimidation, and bullying (HIB) made by petitioner's minor child. Following an investigation, the district's anti-bullying coordinator (ABC) issued a report indicating the complaint was unsubstantiated. Petitioner appealed to the Commissioner, disputing the ABC's conclusion and arguing that the district has violated the Anti-Bullying Bill of Rights Act (Act) and the Family Educational Rights and Privacy Act (FERPA) by refusing to provide access to and copies of video recordings showing the events at issue. The Board filed a motion to dismiss, and the matter was transmitted to the OAL. The case was initially assigned

¹ An audio recording of a telephone conference conducted by ALJ Danielle Pasquale has also been reviewed.

to ALJ Danielle Pasquale and was later transferred to ALJ Jude Tiscornia.² In his Initial Decision, ALJ Tiscornia granted summary judgment to the Board, concluding that petitioner had failed to exhaust her administrative remedies because she had not availed herself of a hearing before the Board prior to appealing to the Commissioner. The ALJ also ruled that the district had substantially complied with petitioner's FERPA request for access to the video recordings, and that FERPA does not require the Board to provide copies of the videos.

Following the Initial Decision, petitioner filed a motion to reopen pursuant to *N.J.A.C.* 1:1-18.5, in which she argued that she was not afforded a hearing or oral argument to present evidence in responsive to the Board's motion to dismiss. The Commissioner denied the motion, finding that no statute or regulation requires a hearing or oral argument.³

In her exceptions, petitioner argues that the ALJ incorrectly found that she was appealing the ABC's HIB finding, and instead asserts that the issue is her request for discovery access to the video recordings prior to the Board hearing. Petitioner also disputes the ALJ's statements that indicate she is seeking copies of the video recordings and that she is seeking access to the videos under FERPA. Petitioner reiterates arguments made in her motion to compel discovery, contending that she needs access to the video recordings to present her case to the Board. Petitioner takes issue with the proceedings at the OAL, in particular the ALJ's granting of a motion for summary decision that the Board did not file. She alleges that if the ALJ converted the Board's

² Petitioner filed a motion to disqualify ALJ Pasquale following a telephone conference she conducted with the parties. The record does not include an Order ruling on the motion to disqualify, but as the case was subsequently transferred to another ALJ, there is no need for a decision on the motion, as petitioner received the relief which she sought.

³ Following the issuance of Commissioner Decision No. 191-20L regarding the motion to reopen, petitioner filed a "Motion for Hearing and Oral Argument," in which she expressed disagreement with the Commissioner's decision. There is no statutory or regulatory provision for such a motion. Nonetheless, as the Commissioner concluded in Decision No. 191-20L, there is no requirement that every case before the OAL include a hearing and/or oral argument, and it was entirely appropriate for the ALJ to issue an Initial Decision without conducting either type of proceeding. For that reason, petitioner's "Motion for Hearing and Oral Argument" is denied.

motion to dismiss to a motion for summary decision, she did not have notice or an opportunity to respond.⁴

In reply, the Board argues that the Initial Decision was correctly decided and should be affirmed.

Upon a comprehensive review of the record, the Commissioner concurs with the ALJ that petitioner's claim regarding the district's HIB decision is not ripe for review because the statutory procedures outlined in the Act have not been completed.⁵ As a preliminary matter, the Commissioner finds that it was appropriate for the ALJ to decide the matter on a summary basis, notwithstanding the fact that the Board did not file a document entitled "Motion for Summary Decision." The Board did file a motion to dismiss, and it included documents outside the pleadings in support of the motion. Converting such a motion to one for summary decision is common practice and consistent with *N.J. Ct. R. 4:6-2*, which is applicable to proceedings at the OAL pursuant to *N.J.A.C. 1:1-1.3*.

Petitioner argues that *N.J. Ct. R. 4 :6-2* requires the court to provide notice that it intends to consider a motion to dismiss as a motion for summary judgment, and that she received no such notice. Her argument is belied by the fact that following a telephone conference with ALJ Tiscornia on August 4, 2020, petitioner filed a letter dated August 5, 2020 in which she objected to having the matter heard on a summary basis. It is clear that petitioner did, therefore, have notice

⁴ Following the filing of her exceptions, petitioner filed a motion to stay the Commissioner's decision in this matter. It appears that petitioner misunderstands *N.J.A.C. 6A:3-1.15*, which provides for a motion for a stay of a Commissioner's decision. This regulation is not a mechanism by which a party can delay the issuance of the Commissioner's decision. Rather, this regulation allows a party delay any relief ordered in the Commissioner's decision, pending a determination on appeal to the Appellate Division of the Superior Court. A motion for a stay of a Commissioner's decision cannot be appropriately filed until after the Commissioner's decision has been issued, and must be filed concurrent with, or subsequent to, a notice of appeal of that decision. Accordingly, petitioner's motion for a stay has not been considered.

⁵ While petitioner indicated in her exceptions that she is not seeking to appeal the ABC's HIB finding, the Commissioner is nonetheless compelled to address this issue, as it was included in the petition of appeal and many of petitioner's filings throughout the pendency of the case, including the exceptions themselves, have included arguments related to the correctness of the ABC's finding that her child was not the victim of an act of HIB.

of the ALJ's intention to treat the Board's motion to dismiss as a motion for summary decision. Moreover, petitioner had the opportunity to present evidence in opposition to the Board's arguments directly in both her original opposition to the motion to dismiss and the August 5, 2020 letter raising additional objections, and indirectly in her numerous other filings making arguments on both the HIB claim and the discovery claim. The Commissioner further rejects petitioner's argument that the Board's failure to provide the video recordings in discovery precludes the entry of summary decision, as the content of the videos is irrelevant to the legal questions pertaining to the Commissioner's jurisdiction over this matter and petitioner's right to her child's student records. The Commissioner therefore agrees with the ALJ's decision to convert the Board's motion to dismiss to a motion for summary decision.⁶

A 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)*. A court should grant summary judgment when the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, show that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law. *Brill v. Guardian Life Ins. Co. of Am.*, 142 N.J. 520, 528-29 (1995).

There is no dispute that the Board has not issued a decision regarding petitioner's HIB claim; in fact, petitioner admits as much in the petition of appeal.⁷ The district's ABC has made

⁶ Following the Initial Decision, petitioner filed a "Motion to Strike" the Board's motion for summary decision and a "Motion to Vacate" the Initial Decision, based on arguments substantially similar to those made in petitioner's exceptions. There is no statutory or regulatory provision for such motions. Nonetheless, as the Commissioner has concluded that converting the Board's motion to dismiss to a motion for summary decision was appropriate, the motions are denied.

⁷ While petitioner filed a motion for leave to amend her petition of appeal, nothing contained in that motion alters the fact that the Board has not yet issued a decision. Instead, the motion seeks to raise additional issues regarding the procedures followed by district staff during the course of the HIB investigation and the accuracy of the ABC's

findings, and the superintendent has reported those findings to the Board, but the Act requires those findings to be affirmed, rejected, or modified by the Board, and it is the Board's decision that is appealable to the Commissioner. *N.J.S.A.* 18A:37-15(b)(6)(e). The Legislature explicitly created a multi-step process for the investigation and determination of HIB allegations. Only after the final decision by the board of education did the Legislature create a right of appeal to the Commissioner, and for good reason – it is not in the interest of judicial economy to adjudicate HIB matters in a piecemeal fashion. To allow an appeal following the ABC's written report, as petitioner sought to do here, would result in the expenditure of time and money to dispute findings that could have been rejected by the Board if the matter had proceeded to a vote. Moreover, the standard of review applicable to the Commissioner's decision in HIB matters necessitates that the process be concluded prior to coming before the Commissioner. When a local board of education acts within its discretionary authority, its decision is entitled to a presumption of correctness and will not be disturbed unless there is an affirmative showing that the decision was "patently arbitrary, without rational basis or induced by improper motives." *See Kopera v. W. Orange Bd. of Educ.*, 60 *N.J. Super.* 288 (App. Div. 1960). The Commissioner is unable to determine whether the Board's decision was arbitrary, capricious, or unreasonable when the Board has not issued a decision.

Although the Commissioner has jurisdiction to hear all controversies arising under the school laws, the criteria for determining the ripeness of a controversy for judicial determination are "the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration." *Abbott Labs v. Gardner*, 387 *U.S.* 136, 149 (1967). In assessing fitness, the court must determine if a legal question suitable for judicial resolution has crystallized and whether the ruling or action that is the subject of the complaint is final. *Ibid.* Here, the action complained of – the HIB finding – is not final, and therefore the matter is not

findings. Petitioner's HIB claim, including any and all issues regarding the district's procedures or findings, is not ripe for review, for the reasons explained herein. Therefore, the motion for leave to amend is moot and is denied.

ripe for review. The Commissioner notes that, in arguing for dismissal, the Board frames the issue as a failure to exhaust administrative remedies, an argument that the ALJ accepted. However, the jurisdictional issue is more properly characterized as one of ripeness, as the Board's decision regarding the HIB allegations is not a remedy to an action by the ABC or the superintendent, but rather a necessary predicate to a decision by the Commissioner.⁸ For these reasons, summary judgment is granted in favor of the Board.

The Commissioner also concurs with the ALJ's decision denying petitioner's motion to compel discovery related to the video recordings.⁹ Petitioner has, in various filings, argued that discovery is needed as part of the district-level HIB process and as part of the contested case opened through her petition of appeal. To the extent that the motion sought discovery in the docketed contested case, the motion is moot and is denied.¹⁰ To the extent that the motion sought "discovery" for the Board hearing on the HIB claim that has not yet occurred, the Commissioner has previously addressed the question of the nature of a board of education's hearing regarding an HIB allegation and concluded that the Act does not require trial-type adversary proceedings. *L.K. and T.K., obo*

⁸ Participants in the Board hearing process may colloquially refer to the hearing as an "appeal." However, while a hearing presents an opportunity for parents to dispute the findings of the ABC and/or the superintendent, it is not, in fact, an appeal of those decisions, and it is not characterized in the Act as such. A parent who does not request a hearing is still permitted to appeal a board's decision to the Commissioner – provided that a decision has been made. Here, the obstacle to the Commissioner's jurisdiction is not the lack of a hearing, but the lack of a decision by the Board.

⁹ Petitioner also filed a motion for emergent relief, asking the ALJ to grant her motion to compel discovery before any other pending motions are decided. Petitioner argued that she is unable to proceed with a hearing before the Board without the video recordings. The motion for emergent relief seeks the same relief as the motion to compel discovery, and it must be rejected for the same reasons.

¹⁰ This decision does not preclude petitioner from seeking the video recordings as discovery in any future proceedings before the OAL, nor does it determine whether any such request should be granted or denied. Petitioner's motion to sanction the Board for failing to respond to her discovery request is also denied. Petitioner emailed counsel for the Board on June 9, 2020, seeking access to or copies of the videos. Petitioner argues that by failing to provide access or copies within 15 days of the request, the Board should be subject to sanctions. However, petitioner had filed a motion to compel discovery, seeking the same items from the Board, on June 12, 2020. With its motion to dismiss pending, as well as petitioner's motion to compel the Board to produce the same video recordings requested in discovery, it was not unreasonable for the Board to withhold discovery until decisions on those motions could be issued. Therefore, sanctions are not warranted. Moreover, as the motion to compel discovery has been denied, the motion for sanctions is moot, and imposing sanctions for failure to produce that discovery would be unfounded.

A.K. v. Mansfield Bd. of Educ., Commissioner Decision 107-19 (April 22, 2019). The Act provides that “[a]t the hearing the board may hear from the school anti-bullying specialist about the incident, recommendations for discipline or services, and any programs instituted to reduce such incidents.” *N.J.S.A.* 18A:37-15(b)(6)(d). Provisions for procedures more judicial in nature – including discovery – could have been included by the Legislature in the Act, but were not, and the Commissioner declines to require such procedures when they are not supported by the plain language of the statute. *See DeFalco v. Bd. of Educ. of the Twp. of Hamilton*, Commissioner Decision No. 198-19, decided July 26, 2019.

However, the Commissioner notes that the petition of appeal claims that the board has violated the law by failing to provide her with access to her child’s educational records, which is a claim that should be evaluated on its own merits and not only with respect to the motion to compel discovery. Petitioner bases her claim on the Family Educational Rights and Privacy Act (FERPA), 20 *U.S.C.* § 1232g.¹¹ The Commissioner has jurisdiction to hear and determine all controversies and disputes arising under the school laws, as well as the rules of the State Board of Education or the Commissioner. *N.J.S.A.* 18A:6-9. The Commissioner has no jurisdiction to adjudicate FERPA, which is a federal law. Accordingly, any claim that the Board has violated FERPA is dismissed. Even viewing the pleadings in the light most favorable to petitioner – affording her leeway as a *pro se petitioner* and addressing her claims under New Jersey’s Pupil Records Act, *N.J.S.A.* 18A:36-19, and its implementing regulations, most specifically *N.J.A.C.* 6A:32-7.5 – the Board is not required to provide petitioner with copies of her child’s records, but rather only access to them, which it has done.¹²

¹¹ While petitioner’s exceptions indicate that she is not actually seeking access to the recordings under FERPA, she also includes arguments that the district violated FERPA, such that the Commissioner is compelled to address them.

¹² While petitioner indicated in her exceptions that she is not seeking copies of the video recordings, but rather “discovery access” to them, the Commissioner is nonetheless compelled to address this issue, as it was included in the petition of appeal and many of petitioner’s filings throughout the pendency of the case have referred to her

Accordingly, the Initial Decision of the OAL is adopted as the final decision in this matter and the petition is hereby dismissed. The matter shall proceed before the Board for the hearing requested by petitioner, and, if petitioner disagrees with the Board's decision following that hearing, she may file a new petition of appeal.¹³

IT IS SO ORDERED.¹⁴

ACTING COMMISSIONER OF EDUCATION

Date of Decision: November 5, 2020
Date of Mailing: November 6, 2020

request for copies of the video recordings. In fact, even the exceptions themselves are contradictory, as petitioner both indicates she is not seeking copies and expresses a "preference" for copies of the recordings.

¹³ The Commissioner notes that the petition of appeal indicates that petitioner was concerned about deadlines, which may have resulted in her filing the petition of appeal prior to the Board's decision. To the extent that clarity may assist the parties on this point, the Commissioner finds that petitioner's time to appeal the ultimate decision of the Board in this matter will begin anew following that decision.

¹⁴ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36 (N.J.S.A. 18A:6-9.1)*.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION MOTION

OAL DKT. NO. EDU 05225-20

AGENCY DKT. NO. 94-5/20

M.M. ON BEHALF OF MINOR CHILD,

Petitioner,

v.

BOARD OF EDUCATION TOWNSHIP

OF LAFAYETTE, SUSSEX COUNTY,

Respondent.

M.M. o/b/o Minor Child, pro se

Marc H. Zitomer, Esq., for respondent (Schenck Price Smith & King, LLP, attorneys)

Record Closed: August 7, 2020

Decided: August 7, 2020

BEFORE **JUDE-ANTHONY TISCORNIA**, ALJ:

STATEMENT OF THE CASE

In this matter, Petitioner seeks to appeal the Anti-Bullying Coordinator's ("ABC") finding that her son was not the victim of HIB. Petitioner was given the opportunity to appeal the findings to the Board as required by statute. M.M. was informed by the Board that the appeal would be conducted virtually, due to the current Covid-19 pandemic. M.M. was also informed that, if M.M. preferred, the District would be willing to hold the HIB timelines in abeyance until it resumed its in-person meetings. Petitioner chose not to avail herself of the either option

presented and filed this action challenging the findings instead. Respondent now moves to dismiss M.M.'s appeal on procedural grounds, arguing that M.M. has failed to exhaust her administrative remedies by not having an appeal at the board level.

In her appeal, M.M. also seeks to obtain copies of security camera videos of the physical education class where she asserts that some of the bullying occurred. M.M. has filed a cross motion to compel the respondent to produce copies of the videos which shall be addressed in this decision.

ISSUE

Is the current HIB appeal properly before the OAL and, if so, should respondent school district be compelled to supply security camera video footage to M.M.?

PROCEDURAL HISTORY

M.M. filed a HIB complaint with Respondent School District on or about January 17, 2020. The matter was investigated by the District's Anti-Bullying Coordinator and the allegations set forth in the HIB complaint were determined to be unsubstantiated.

M.M. filed an appeal of the District's determination with the New Jersey Commissioner of Education on or about May 12, 2020. Respondent filed a Motion for Summary Dismissal in Lieu of an Answer on June 4, 2020. The matter was transmitted to the OAL where it was assigned to the Hon. Danielle Pasquale and subsequently to the undersigned on July 17, 2020.

The matter was conferenced telephonically on August 4, 2020, wherein the Undersigned agreed, upon Respondent's request, to rule on the Summary Decision Motion. The Undersigned also agreed to entertain M.M.'s motion to compel discovery.

The Undersigned allowed the record to remain open until August 7, 2020.

Legal Discussion and Conclusions

The procedure for appealing a HIB determination is specified in N.J.S.A. 18A:37-13.2 et seq., also known as the Anti-Bullying Bill of Rights Act (the “Act”). Under this act, a parent, upon receiving information regarding their child’s involvement in a HIB incident, may request a hearing before the board, which must be heard within 10 days of the parents’/guardians’ request. N.J.S.A. 18A:37-15(b)(6)(d). The requested hearing takes place before the board in executive session. *Id.* Finally, at the next regularly scheduled board of education meeting, the board shall issue a written decision affirming, rejecting, or modifying the superintendent’s decision. N.J.S.A. 18A:37-15(b)(6)(e). “The board’s decision may be appealed to the Commissioner of Education.” *Id.*

In the case at bar, a hearing was never conducted before the Board. Instead, M.M. appealed the Anti-Bullying Coordinator’s findings directly to the Commissioner of Education. In her pleadings, M.M. indicates that she filed her appeal directly with the Commissioner because she feared that she would lose her opportunity to do so if she waited for an in-person appeal, due to statutory timelines set forth in the act. The District asserts in their pleadings that they communicated to M.M. that they would be willing to hold any statutory timelines in abeyance due to the ongoing pandemic. M.M. disputes any such communication by the district. Either way, the District has maintained throughout this entire matter that they would so hold in abeyance any statutory timelines in view of the worldwide pandemic, and that M.M.’s appeal rights to the Commissioner would not be forfeited. Thus, Respondent argues, M.M. has not exhausted all of her administrative remedies.

The fundamental concept that administrative remedies should be fully explored before judicial action is sanctioned is well established. See [Garrow v. Elizabeth General Hosp. and Dispensary, 79 N.J. 549, 558-59 \(1979\)](#); citing [Central R.R. Co. v. Neeld](#), 26 N.J. 172, 178, cert. den. 357 U.S. 928, 78 S. Ct. 1373, 2 L. Ed. 2d 1371 (1958); “Exhaustion of administrative remedies before resort to the courts is a firmly embedded judicial principle” *Id.* at 559. I, therefore, **CONCLUDE** that petitioner’s appeal regarding this incident is not ripe as she failed to exhaust her administrative remedies by having a HIB hearing before the local Board prior to seeking administrative relief from the Commissioner of Education.

Summary Decision Standard

A “motion for summary decision shall be served with briefs and with or without supporting affidavits.” N.J.A.C. 1:1-12.5(b). A 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.” Ibid. A court should grant summary judgment when the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, show that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law. Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 528-29 (1995).

Here, it is undisputed that a HIB hearing was never conducted in front of the local Board of Education. I therefore **CONCLUDE** that M.M. has not exhausted her administrative remedies and should avail herself of a Board hearing before appealing to the Commissioner. I further **CONCLUDE**, as a matter of law, that the forgoing motion should be granted so the matter may be heard at the local level as prescribed by law.

Motion to Compel Discovery

With regard to M.M.’s cross motion to compel the District to produce copies of the security camera video recordings of M.M. son’s gym class, it is undisputed that M.M. had an opportunity to review the video recordings at the District, and did, in fact, review said recordings while accompanied by a District employee. M.M. asserts that this is inadequate and that the law requires the district to relinquish possession to her copies of the video recordings, notwithstanding the images of minor children, other than M.M.’s son, appear on the recordings. M.M. argues that she has a right to possess the recordings under The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99). While FERPA does state that parents have the right to inspect and review their child’s education records maintained by the school, FERPA specifically states that schools are not required to provide copies of those records. Thus, I **CONCLUDE** that the district substantially complied with M.M.’s request to review the video recordings by having her review the recordings at the District accompanied by a District Employee and I further **CONCLUDE** that the District shall not be compelled to provide physical copies of the video recordings for M.M. to possess.

ORDER

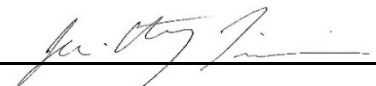
Based upon the foregoing, it is **ORDERED** that respondent Board of Education of Twp. of Lafayette’s Motion for Summary Decision is **GRANTED** as M.M.’s appeal before the Commissioner of Education is not ripe and the moving party is entitled to prevail as a matter of law. It is further **ORDERED** that M.M.’s Cross Motion to Compel Discovery shall 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, 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.

August 7, 2020 _____
DATE



JUDE-ANTHONY TISCORNIA, ALJ

Date Received at Agency:

August 7, 2020 _____

Date Mailed to Parties:

August 7, 2020 _____