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J.K o/b/o K.K., *Petitioner*, vs. Board of Education of the Township of Parsippany-Troy Hills, Respondent.	OFFICE OF ADMINISTRATIVE LAW AGENCY REFERENCE NO. 28-1/25 DOCKET NO. EDU 3654-25 **PETITIONER'S REPLY TO RESPONDENT'S EXCEPTIONS**

Petitioner, J.K., by and through undersigned counsel, submits this Reply to Respondent's Exceptions to the Initial Decision dated December 8, 2025. N.J.S.A. 18A:39-1 provides that school districts must supply transportation 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." Administrative Law Judge ("ALJ") Vincitore noted this clear language, correctly determined that Petitioner's child lives within 20 miles of her remote school, and found that the only dispute, how the distance ought to be measured, was directly controlled by a New Jersey Administrative Code provision directly on point. Initial Decision at 5 (citing N.J.A.C. 6A:27-1.3(A)(1)(ii)).

Respondent now raises three exceptions to this decision, none of which is factually correct, and none of which addresses the central issue: Petitioner's child lives within 20 miles of her school. The Initial Decision should be affirmed in all respects and adopted, and the Respondent's Exceptions should be denied. As ALJ Vincitore succinctly opened his Initial Decision, "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." Initial Decision at 1. This is not a close case requiring complex factual determinations: It's a straightforward question of whether the Board must follow the regulation requiring use of the "shortest route." It must.

RELEVANT FACTS

The following facts are established by the record and are undisputed, were found by the ALJ in the Initial Decision, or come from the statements and admissions of the Respondent in this case:

New Jersey law requires transportation distances for eligibility calculations to be measured by the "***shortest*** route along public roadways or public walkways." N.J.A.C. 6A:27-1.3(a)(1)(ii) (emphasis added).

The Parsippany-Troy Hills Board instead "determines eligibility mileage by using Google Maps ***walking*** distance" and by relying upon the "shortest walking distance." Certification of

Donald A. Soutar ("Soutar Cert.") at Interrog. 16 (emphasis added); Soutar Cert. Ex. 6, Parent Guide to Transportation at 2 (emphasis added).

Petitioner J.K. is a resident of Parsippany, New Jersey, residing at 9 Parkside Drive, Parsippany, NJ 07054. Initial Decision at 3; Pet. ¶ 1; Answer ¶ 1; Certification of J.K. ("J.K. Cert.") ¶ 2. His daughter, K.K., attends Eastern Christian Upper Elementary & Middle School, a non-public school located at 518 Sicomac Avenue, Wyckoff, NJ 07481. Initial Decision at 3; Pet. ¶ 2; Answer ¶ 2. K.K. lives more than two miles from her school. Initial Decision at 3.

On August 1, 2024, the Board's transportation supervisor, Tiffany Pizza-Hiltz, sent J.K. a letter denying aid in lieu of transportation. Initial Decision at 3; Pet. ¶ 4; Answer ¶ 4; J.K. Cert. ¶ 3, Ex. A. The letter checked a box indicating the reason for denial: "Mileage is over maximum of 20 miles." *Id.*

On September 6, 2024, J.K. sent the Board a printout from Google Maps showing a route between his home and K.K.'s school measuring 19.9 miles. Initial Decision at 3; Pet. ¶ 5; Answer ¶ 5 (The Board admitted receipt of this correspondence and that it "speaks for itself."); J.K. Cert. ¶ 4, Ex. B. This route includes Interstate 80, a public roadway that cannot be traversed on foot.

On October 1, 2024, J.K. provided the Board with a survey from Brevard Surveying & Mapping, LLC, a licensed New Jersey surveyor. Initial Decision at 3; Pet. ¶ 12; Answer ¶ 12; J.K. Cert. ¶ 5, Ex. C; Req. No. 1 (admitted). This survey measured the distance at 19.7 miles using "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 Board first calculated distance using Google Maps walking distance only, which showed 21 to 24.7 miles between J.K.'s home and the school. Initial Decision at 3; Pizza-Hiltz Cert., Ex. B (referring to "the walking distance from Petitioner's home to the nonpublic school.").

The Board later used Google Maps driving distance, which it claims produced three routes all over 20 miles. Pizza-Hiltz Cert. ¶¶ 7-9, Exs. B & C. The Transportation Supervisor certified that she "attempted to drive" the route shown in Petitioner's Google Maps printout and that "it measured over 20 miles." Pizza-Hiltz Cert. ¶¶ 11-13; Initial Decision at 3. However, this certification provides no explanation of the methodology used, no odometer readout, no confirming documentation of any kind, and no other form of verification.

The Google Maps route the Petitioner provided to the Board shows that the route of travel from [redacted] to the Eastern Christian Upper Elementary & Middle School, located at 518 Sicomac Avenue in Wyckoff, is less than twenty (20) miles. A Google Maps route of under 20 miles can be confirmed directly via the link in the following request for admission:

> [t]he map generated by Google Maps at the link below demonstrates a distance traveled from [redacted] to the Eastern Christian Upper Elementary & Middle School, 518 Sicomac Avenue, Wyckoff, New Jersey 07481 of less than twenty (20) miles:
>
> [redacted]

(Soutar Cert. Ex. 2 at Request No. 4). This link shows a Google Maps distance calculation of less than twenty miles on public roadways between J.K.'s home and his daughter's school. *See* Figure 1 (demonstrating a distance of 19.3 miles from [redacted] to 518 Sicomac Ave., Wyckoff, NJ). This route cannot be travelled by walking as it includes Interstate 80, a public roadway which does not allow pedestrian traffic. Critically, the Board has never disputed that Interstate 80 is a public roadway, nor that it forms part of the shortest route between the residence and school when driving is considered. Nor has the Board disputed the reliability of Google Maps, itself relying on the service. The Board's entire position thus rests on the premise that only walking routes should be considered, or alternatively its own cherry-picked vehicle routes which are *not* the shortest.

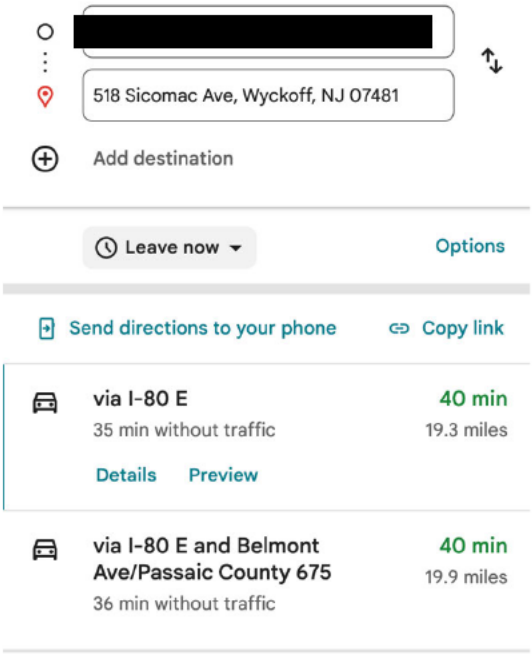

Figure 1 – A portion of the Google Maps webpage produced at the link described *supra*

Between August and November 2024, the Board contacted the New Jersey Department of Education seeking guidance on how to measure transportation distance. Pizza-Hiltz Cert. ¶ 14. In response, NJDOE provided the text of N.J.A.C. 6A:27-1.3(a)(1)(ii), which requires measuring distance using "the ***shortest*** route along public roadways or public walkways." Soutar Cert. Ex. 5 at 3 (emphasis added). NJDOE did not provide any support for the Board's position that measurement should be by "walking miles" only.

On November 4, 2024, Board attorney Katharine Gilfillan sent J.K. a letter explicitly stating: "this matter has been considered by the Superintendent and this decision is the Board's

final decision." Initial Decision at 3, 6; Pet. ¶¶ 14-15; Answer ¶ 15; J.K. Cert., Ex. D. This letter claimed that "even if we utilize that route" from the surveyor, "it still equates to over 20 miles." J.K. Cert., Ex. D; Pet. ¶ 16; Answer ¶ 16. This statement was false.

The Board admitted in discovery that "to the best of its knowledge, no other family has submitted independent surveys regarding distance calculations in response to a denial of transportation eligibility." Soutar Cert. Ex. 1 at Interrog. 20.

J.K. filed his Petition of Appeal with the Commissioner on January 31, 2025—88 days after the November 4, 2024, final decision. Initial Decision at 6. On December 8, 2025, ALJ Vincitore issued an Initial Decision granting Petitioner's motion for summary decision and denying the Board's cross-motion. Initial Decision at 6. The ALJ found that the petition was timely filed and that "the licensed surveyor's distance calculation, which uses public roadways and public walkways, is 19.7 miles, [and] that is the distance from home to school for purposes of transportation in this case." *Id.* at 5.

The Board filed its Exceptions on December 22, 2025.

REPLY TO EXCEPTION I: THE PETITION WAS TIMELY FILED

On November 4, 2024, Counsel for Respondent sent a letter to Petitioner stating, "The matter has been considered by the Superintendent and this decision is the District's final decision." J.K. Cert., Ex. D. The ALJ correctly determined that this letter thus constituted the Board's final decision, rejecting the Respondent's argument that the earlier August 1, 2024, communication was a "final decision."

The August 1 letter was a preliminary determination by a transportation supervisor, not a final Board action. Petitioner appropriately sought reconsideration by providing additional evidence, including professionally surveyed measurements. The Board engaged with these

submissions, consulted the New Jersey Department of Education, and ultimately issued a "final decision" through Board's counsel on November 4, 2024. The same counsel for Respondents later insisted that the earlier August 1, 2024 communication was a "final decision." This claim attacks Respondent's own credibility and that of its counsel. Calling the November letter a "final decision" is not an extrapolation, it is the Respondent's own words on the letter. In contrast, the August 1 letter, J.K. Cert., ¶ 3 Ex. A, never purports or claims in any way to be a final decision.

ALJ Vincitore explained thoroughly why Respondent's argument was wrong:

> 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.

Initial Decision at 6. Petitioners do not argue that negotiation tolls these deadlines. Rather, Petitioner argued, and ALJ Vincitore held, that the Board's own words meant what they said. Negotiation does not toll deadlines for challenging a final decision, but first that final decision has to be issued. Petitioner filed his appeal within 90 days of the explicit "final decision" issued on November 4, 2024. The ALJ correctly determined the petition was timely and Respondent raises no serious argument to the contrary.

REPLY TO EXCEPTION II: THE ALJ CORRECTLY APPLIED THE LAW AND THE RECORD SUPPORTS THE DECISION

The Board's second exception fundamentally misunderstands both the regulatory requirement and the record and is belied by the record. Simply put, the Board did not use "the shortest route along public roadways or public walkways" as required by N.J.A.C. 6A:27-1.3(a)(1)(ii). The Board does not deny this fact, but rather emphasizes deference owed to boards

of education and their discretion. However, this is no debate over the minutiae of measurement methods, but a stark departure from the *plain language* of an explicit statutory requirement.

The deference owed to boards of education is not limitless. Respondent relies on *Kopera* for the idea that unless Petitioner shows that the decision was "patently arbitrary, without rational basis or induced by improper motives" it should be granted deference. Exceptions at 5 (citing *Kopera v. Bd. of Educ. Of W. Orange*, 60 N.J. Super. 288, 294 (App. Div. 1960)). This citation is incomplete, as the authority only grants this level of deference to an "action of the local board which lies within the area of its discretionary powers." *Kopera*, 158 A.2d 842, 845 (N.J. Super. 1960). Put simply, the decision to add additional restrictions to a State-mandated public service, directly contradicting the controlling statute's plain language, is not an action "which lies within the area of [the Board's] discretionary powers." The law's requirement is non-discretionary; when measuring distance, it "shall be measured using the shortest route." N.J.A.C. 6A:27-1.3(a)(1)(ii). The use of "shall" creates a nondiscretionary duty. *Harvey v. Board of Chosen Freeholders*, 30 N.J. 381, 391 (1959); *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U. S. 26, 35 (1998) (holding that 'shall' "normally creates an obligation impervious to judicial discretion").

Thus, the Board's initial decision to choose walking-only routes that exclude public roadways such as Interstate 80 is not entitled to any deference. Once the Board chose walking-only routes that exclude public roadways, it exited the zone of deference entirely. The Board possesses no deference to refuse to implement its legal obligation.

Nor is the Board's belated consideration of other "public roadways" entitled to deference either. Exceptions at 4. The Board makes the remarkable claim that because it found three routes over 20 miles, "all routes calculated by Google Maps measured the distance between Petitioner's home and the student's nonpublic school as exceeding the 20-mile limitation." Exceptions at 4.

This logic is fundamentally flawed: The existence of three longer routes does not establish that no shorter routes exist. Indeed, Petitioner has repeatedly provided evidence of precisely such a shorter route. Given the number of roadways in New Jersey, an extensive number of unique paths lie between two points, and undoubtedly many of these paths are over 20 miles. These paths are all irrelevant. The statutory obligation is to find "the shortest route." Once a shortest route is confirmed to exist at under 20 miles, the Board's duty is nondiscretionary and ministerial. It has no discretion to deny transportation assistance based on a refusal to acknowledge the existence of that shorter route.

ALJ Vincitore thus correctly concluded that choosing a non-shortest route "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." Initial Decision at 6. The Board tries to dispute this, claiming that state law does not set a method for transportation calculation and that it is without "direction from the State Legislature and the New Jersey Department of Education." Exception at 4-5. That claim is false; guidance has been provided: the shortest distance. Accordingly, (1) 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 (2) the licensed surveyor's distance calculation, which uses public roadways and public walkways, is 19.7 miles, that distance is the distance from home to school for purposes of transportation in this case, a finding of fact that should not and cannot be disturbed. Moreover, unlike most disputes, this one can be resolved immediately by the Commissioner checking Google Maps. This is not a "swearing contest" requiring credibility determinations.

The Board's parade-of-horribles arguments about "battles of experts" and "mass confusion" are unpersuasive. Exceptions at 5-6. First, the law already requires measuring distance—the Board must measure distance somehow. The question is only whether that measurement must use the shortest route along public roadways or walkways (as the regulation requires) or only walking distance or whatever distance may be shown first by Google Maps (as the Board seems to prefer). Following the regulation is no more burdensome than following the Board's invented standard. Nor is following the standard likely to cause "mass confusion" as the arbitrary standards adopted by the Board are more confusing than finding the simple shortest route. The Board's concerns about parents submitting surveys are similarly a red herring. No other parent has submitted an independent survey. Soutar Cert. Ex. 1, Interrog. 10, 20. Also, the Board has not explained why reviewing easily verifiable distance calculations, the actual regulatory standard, would be impractical or difficult. The statute requires that Boards measure distance using the shortest route along public roadways or walkways. The Board has identified no inherent impossibility in compliance. The Board should be ordered to comply with this mandatory duty; once it is presented with a route under 20 miles, it must provide assistance.

REPLY TO EXCEPTION III: SUMMARY DECISION WAS PROPER AND THE EVIDENCE WAS PROPERLY CONSIDERED

The Board's third exception conflates multiple arguments but fails on each. The dispositive issue is legal and ripe for summary decision. When reviewing that decision, an agency head "may not ignore an administrative law judge's abundantly supported conclusions." *P.F. v. N.J. Div. of Developmental Disabilities*, 139 N.J. 522, 530 (1995). "That the ALJ's findings must be given such consideration on appeal from the agency's determination is settled." *State, Dep't of Health v. Tegnazian*, 194 N.J. Super. 435, 449 (1984). Moreover, "a non-moving party cannot defeat a

motion for summary judgment merely by pointing to any fact in dispute." *Brill v. Guardian Life Ins. Co. of Am.*, 142 N.J. 520, 529 (1995). Instead, "a determination whether there exists a 'genuine issue' of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party." *Id.* at 540.

The Board has relied repeatedly and expressly on Google Maps as an accurate source of information. Google Maps provides a directly and immediately verifiable distance of under 20 miles, immediately resolving this case. The Board claims that Petitioner's Google Maps printout "could not be replicated by the Board" and that driving the route measured "over 20 miles." Pizza-Hiltz Cert. ¶¶ 11-13; Exceptions at 7. This argument is disingenuous for several reasons. First, that printout has been provided by Petitioner at multiple occasions. *See, e.g., supra* at 4. Simply clicking the hyperlink above will take anyone to a linked map that confirms the distance is under 20 miles. The Board does not claim this link is fraudulent or inaccurate, nor can they, as it can be replicated by simply clicking on the link or checking the provided figure.

Respondent's previous reliance on Google Maps further makes this objection contradictory and fatal to its case. The Board has adopted Google Maps as its official method for measuring transportation distance when it represented that it "determines eligibility mileage by using Google Maps" for all students. Soutar Cert. Ex. 1, Interrog. 16. The Board chose this tool, implemented it as policy, and uses it uniformly. The Board cannot have it both ways. Either Google Maps is a reliable tool for measuring distance—in which case the route Petitioner provided (which the Board admitted "speaks for itself," Answer ¶ 5) should be simply credited—or Google Maps is unreliable, in which case the only measurement left is the official survey. Petitioner prevails either way.

Ms. Pizza-Hiltz's bare assertion that she "drove" a route and obtained an unverified odometer reading creates no genuine issue of material fact. She provides no documentation, no contemporaneous notes, no photograph of the odometer, and no explanation of what route she actually drove. This falls far short of the competent evidence required to defeat summary judgment.

Turning to Petitioner's provided survey, the Board argues the Brevard survey is hearsay and unauthenticated. Exceptions at 8-9. This argument fails for multiple independent reasons. First, the Board admitted receiving this survey and did not object to its authenticity or on hearsay grounds during discovery. Req. No. 1 (admitted); Pet. ¶ 12, Answer ¶ 12. The Board cannot raise authenticity objections for the first time in exceptions after admitting receipt and failing to object earlier. That alone is fatal under N.J.A.C. 1:1-18.4(c) ("Evidence not presented at the hearing shall not be submitted as part of an exception, nor shall it be incorporated or referred to within exceptions."). Respondent is prohibited from raising "issues and allegations not presented in the record below." *R.K. v. DMAHS et al.*, OAL DKT. NO. HMA 18304-2017, 2018 N.J. AGEN LEXIS 1186, Final Agency Determination (September 14, 2018). Here, the Board admitted receiving the survey, Soutar Cert., Ex. 2, Req. No. 1; Answer ¶ 12, answered interrogatories about it, Soutar Cert., Ex. 2, Interrog. 20, and never objected to its authenticity or on hearsay grounds during discovery or in its opposition to summary decision. The Board cannot raise authentication or hearsay objections for the first time in exceptions after the Initial Decision has been issued.

Second, objecting at the time would have been futile in any case. The survey was attached to J.K.'s certification. J.K. Cert. ¶ 5, Ex. C. The survey is a business record of a licensed, official New Jersey survey company, and Respondent has identified no ground to attack that survey, dispute the licensure of the survey company, or otherwise legitimately attack admissibility.

Finally, the survey evidence is not necessary for ALJ Vincitore's decision. Petitioner's Google Maps evidence—which the Board admitted "speaks for itself"—establishes a route under 20 miles. The survey merely provides additional confirmation of what Google Maps already established and can be easily verified. With the distance immediately verifiable by the Commissioner, the Board's bare assertion that it could not verify Petitioner's route, unsupported by any documentation or methodology, is insufficient to create a genuine issue of material fact.

CONCLUSION

The ALJ's decision was correct in all respects. The petition was timely filed within 90 days of the November 4, 2024, final decision. The Board violated N.J.A.C. 6A:27-1.3(a)(1)(ii) by measuring distance using only walking routes rather than the shortest route along public roadways or walkways, and then by refusing to provide transportation assistance despite confirmation of a distance of under 20 miles. Summary decision was appropriate because this is a pure question of law, and the undisputed facts establish that the shortest route along public roadways is under 20 miles. The Initial Decision should be affirmed in all respects.

For these reasons, Petitioner respectfully requests that the Commissioner:

1. Deny Respondent's Exceptions in their entirety;
2. Adopt the Initial Decision granting summary decision in Petitioner's favor;
3. Order Respondent to immediately provide aid in lieu of transportation to which Petitioner is entitled under N.J.S.A. 18A:39-1;
4. Award Petitioner his reasonable attorneys' fees.

Respectfully submitted,

Dated: December 30, 2025

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that, on December 30, 2025, I caused a copy of the foregoing document to be filed with the Commissioner of the Department of Education by sending same, via email to:

ControversiesDisputesFilings@doe.nj.gov

I further certify that, on December 30, 2025, I caused a copy of the foregoing document to be served upon the Honorable Aurelio Vincitore, ALJ, by sending same, via email to:

Ila.Dhabliwala@oal.nj.gov

I further certify that, on December 30, 2025, I caused a copy of the foregoing document to be served upon respondent Board of Education of the Township of Parsippany-Troy Hills, by sending same, via email, to its counsel of record:

Alison L. Kenny, Esq.
Schenck, Price, Smith & King, LLP
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s/ *John D. Coyle*
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