

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**192**

**CA 17-01412**

PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, CURRAN, AND WINSLOW, JJ.

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VILLAGE OF EAST AURORA,  
PETITIONER-PLAINTIFF-APPELLANT,

V

MEMORANDUM AND ORDER

EAST AURORA UNION FREE SCHOOL DISTRICT, BOARD  
OF EDUCATION OF EAST AURORA UNION FREE SCHOOL  
DISTRICT, NEW YORK STATE EDUCATION DEPARTMENT  
AND MARY ELLEN ELIA, COMMISSIONER, NEW YORK  
STATE EDUCATION DEPARTMENT,  
RESPONDENTS-DEFENDANTS-RESPONDENTS.

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BARTLO, HETTLER, WEISS & TRIPI, KENMORE (PAUL D. WEISS OF COUNSEL),  
FOR PETITIONER-PLAINTIFF-APPELLANT.

HARRIS BEACH PLLC, BUFFALO (RICHARD T. SULLIVAN OF COUNSEL), FOR  
RESPONDENTS-DEFENDANTS-RESPONDENTS EAST AURORA UNION FREE SCHOOL  
DISTRICT AND BOARD OF EDUCATION OF EAST AURORA UNION FREE SCHOOL  
DISTRICT.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (LAURA ETLINGER OF  
COUNSEL), FOR RESPONDENTS-DEFENDANTS-RESPONDENTS NEW YORK STATE  
EDUCATION DEPARTMENT AND MARY ELLEN ELIA, COMMISSIONER, NEW YORK  
STATE EDUCATION DEPARTMENT.

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Appeal from a judgment (denominated order) of the Supreme Court,  
Erie County (E. Jeannette Ogden, J.), entered February 24, 2017 in a  
CPLR article 78 proceeding and a declaratory judgment action. The  
judgment, among other things, granted the motions of respondents-  
defendants to dismiss the amended petition-complaint.

It is hereby ORDERED that the judgment so appealed from is  
unanimously affirmed without costs.

Memorandum: We affirm for reasons stated in the decision at  
Supreme Court. We write only to note that the accrual date for  
purposes of the four-month statute of limitations is November 6, 2014  
(see CPLR 217 [1]).

Entered: February 9, 2018

Mark W. Bennett  
Clerk of the Court