



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

**RANDOLPH TONWHIP,
BOARD OF EDUCATION,**

Petitioner,

v.

M.M. ON BEHALF OF L.M.,

Respondent.

OAL DKT. NO. EDS 15685-24

AGENCY DKT. NO. 2025-38202

M.M. ON BEHALF OF L.M.,

Petitioner,

v.

**RANDOLPH TOWNSHIP
BOARD OF EDUCATION,**

Respondent.

OAL DKT. NO. EDS 15690-24

AGENCY DKT. NO. 2025-38203

No Appearance by or on behalf of M.M., parent

Robin S. Ballard, Esq., for Randolph Twp. BOE (Schenk, Price, Smith & King,
LLP, attorneys)

Record Closed: May 30, 2025

Decided: June 23, 2025

BEFORE **DANIEL J. BROWN**, ALJ:

STATEMENT OF THE CASE

The Randolph Township Board of Education (Board) conducted initial placement evaluations of L.M. that were complete and appropriate. Is L.M.'s parent, M.M., entitled to an independent educational evaluation (IEE) at public expense? No. A parent is not entitled to an IEE at public expense if the evaluations conducted by the school district were complete and appropriate. N.J.A.C. 6A:14-2.5(c)(1).

PROCEDURAL HISTORY

This case arises under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400 to 1482. On September 29, 2024, M.M. filed, through counsel, a request for mediation. A virtual mediation session was held on October 30, 2024, and was unsuccessful. The request for mediation filed by M.M. on behalf of her seven-year-old son, L.M., was converted into a petition for a due process hearing, seeking a neuropsychological evaluation to be conducted at the respondent's (Board) expense, an IEP meeting to be held within thirty days of the parties' receipt of the neuropsychological evaluation report and other relief.

On October 2, 2024, the Board filed an answer. The Board also filed a Due Process Petition seeking an order denying M.M.'s request for an independent evaluation at the Board's expense.

On October 30, 2024, the Office of Special Education of the New Jersey Department of Education transmitted the cases to the Office of Administrative Law (OAL), where they were filed on November 7, 2024.

The OAL scheduled a settlement conference for November 13, 2024. That settlement conference was unsuccessful.

On November 14, 2024, the case was assigned to me. On November 21, 2025, M.M.'s counsel filed a motion to be relieved as counsel, which M.M. did not oppose and which I granted.

The OAL scheduled a pre-hearing conference on January 15, 2025. Both parties attended. I scheduled a hearing for March 13, 2025. M.M. acknowledged receipt of the hearing notice via email. M.M. requested an adjournment on the morning of the hearing. She provided a note from her doctor that indicated that she had pneumonia. I granted the adjournment and rescheduled the hearing for May 13, 2025.

M.M. was noticed in the same way for the May 13, 2025, hearing date that she was noticed for the earlier hearing date for which she requested an adjournment. On May 13, 2025, the Board appeared for the hearing and M.M. did not. However, M.M. did not request an adjournment or advise me that she was unavailable. In fact, M.M. has not had any contact with me since the hearing date on March 13, 2025.

As M.M. did not appear for the hearing despite being given notice to appear, an ex parte hearing took place at the OAL in Newark, New Jersey on May 13, 2025. At the hearing, the Board advised me that prior to the hearing date, M.M. transferred her child, L.M., from the school district. The Board presented the testimony of L.M.'s case manager, Kristen Atelek. Ms. Atelek testified as an expert in social work, eligibility determinations and special education planning. The Board also introduced several exhibits into evidence.

The Board requested the opportunity to file a written summation, and I approved that request. I gave the parties until May 30, 2025, to file written summations. On May 28, 2025, I received the Board's written summation. M.M. failed to submit a written summation and failed to request an extension of time to do so. At the end of the day on May 30, 2025, I closed the record.

FINDINGS OF FACT

I **FIND** the following uncontested **FACTS**:

M.M.'s child, L.M. is a seven-year-old student who used to attend the Randolph Township Public School District (District). He was referred to the Child Study Team (CST) in September 2023 for consideration for special education. An evaluation plan was developed, with M.M.'s consent, for L.M. A psychological evaluation was conducted of L.M. by Elissa Winklestein, M.ED on September 13, 2023. An educational assessment was conducted of L.M. by Linda Consales, M.Ed., LDT-C on September 28, 2023. A speech and language evaluation was conducted of L.M. by Kayla Spiropoulos, M.A., CCC-SLP on October 6, 2023. Caroline Meade, MS OTR/L performed an occupational therapy evaluation of L.M. on October 4, 2023, and October 18, 2023. A functional assessment of L.M. was completed by Kristen Atelek, MSW, who prepared a report dated November 14, 2023.

On November 30, 2023, the IEP team met to review the evaluations conducted of L.M. At that meeting, it was determined that L.M. met criteria to be classified as eligible for special education and related services. An Individualized Education Plan (IEP) was offered. M.M. refused to consent to implement the IEP developed for L.M.

In April 2024, L.M. was again referred to the CST for consideration for special education. The CST accepted the referral and conducted additional assessments. A social history/ functional assessment of L.M. was completed by Ms. Atelek. On May 31, 2024, Ms. Atelek interviewed M.M. for social history. Ms. Atelek completed a functional assessment of L.M., consisting of a record review, review of work samples, observation of L.M. in the classroom, and an interview of L.M.'s teacher. Ms. Atelek prepared a report of her findings dated June 24, 2024. A functional behavioral assessment of L.M. was completed by Barara Gontarski, M.A.T., BCBA, who prepared a report dated June 13, 2024.

On July 24, 2024, the IEP team met and reviewed a neurodevelopmental evaluation of L.M. provided by M.M. Additionally, the IEP team reviewed the additional

assessments of L.M. that were conducted by Ms. Atelek and Ms. Gontarski. The IEP team found that L.M. again met the criteria for special education and related services. An Individualized Education Plan (IEP) was offered. Again, M.M. refused to consent to implement the IEP developed for L.M.

M.M. filed for mediation to challenge the appropriateness of the IEP developed for L.M. Additionally, M.M. requested completion of an independent neuropsychological evaluation of L.M. The Board filed a petition for due process to oppose M.M.'s application for an independent neuropsychological evaluation of L.M.

Prior to the hearing on May 13, 2025, M.M. transferred L.M. to a private school outside of the District for his education. At the hearing on May 13, 2025, the Board presented testimony from Ms. Atelek. Ms. Atelek testified that the CST evaluation of L.M. was comprehensive and provided sufficient data to determine L.M.'s eligibility for special education and related services. Additionally, Ms. Atelek testified that the evaluations of L.M. provided sufficient data to allow for the development of appropriate supports to address L.M.'s needs. Ms. Atelek further testified that the CST evaluation was appropriate and that no further assessments were necessary to fulfill the purpose of an initial CST evaluation. I had the opportunity to observe Ms. Ateski testify and listen to her testimony. She testified in a direct and straightforward manner. I **FIND** that her testimony was very credible, and I give great weight to that testimony.

DISCUSSION AND CONCLUSIONS OF LAW

N.J.A.C. 6A:14-2.5(c) and 34 C.F.R. 300.502 (2024) govern independent evaluations. Once a school district has completed an initial evaluation, a parent can request an IEE at public expense. However, the parent must state the issue of concern or disagreement with the initial evaluation. The parent must also specify the assessment sought as part of the IEE under N.J.A.C. 6A:14-2.5(c). Upon receipt of a parent's request for an IEE, the school district shall either provide the IEE or request a due process hearing within twenty calendar days after receiving the parent's IEE request. N.J.A.C. 6A:14-2.5(c)(1)(i)–(ii); 34 C.F.R. 300.502(b)(2) (2024). The requested "independent evaluation(s) shall be provided at no cost to the parent, unless the district board of

education initiates a due process hearing to show that its evaluation is appropriate and, following the hearing, a final determination to that effect is made.” N.J.A.C. 6A:14-2.5(c)(1); 34 C.F.R. 300.502(b)(3) (2024).

The evaluation procedures require that the district board of education use various assessment tools and strategies to gather relevant functional information in all areas of suspected disability, including information provided by parents that may be assistive, and, for preschool children, to participate in appropriate activities. N.J.A.C. 6A:14-2.5(a)(1)(i)–(ii); N.J.A.C. 6A:14-2.5(b)(3). The procedure also requires the district board of education to use technically sound instruments that assess cognitive and behavioral factors, as well as physical or developmental factors. N.J.A.C. 6A:14-2.5(a)(3).

M.M.’S Due Process Petition for an independent evaluation

The IDEA and N.J.A.C.6A:14 provide that the student’s school district must deliver special education and related services in accordance with the student’s IEP and guarantee the right of parents to participate in planning and monitoring the education program and services provided to the child. As M.M. transferred L.M. to a private school outside of the District, **I CONCLUDE** that the District is no longer responsible for delivering special education and related services to L.M., including an IEE.

Additionally, under N.J.A.C. 1:1-14.4(a), if a properly noticed party does not appear in any proceeding scheduled by a judge, the judge shall hold the matter for one day before acting. If the judge does not receive an explanation for the nonappearance within one day, the judge may direct the Clerk to return the matter to the transmitting agency for appropriate disposition. M.M failed to appear for the hearing date on May 13, 2025, and to date, she has not provided an explanation for her failure to appear.

Based on the facts and the applicable law, **I CONCLUDE** that M.M.’s failure to appear for the hearing without any explanation demonstrates that she abandoned this case. Thus, **I CONCLUDE** that her petition should be **DISMISSED**.

The Board's evaluations of L.M.

The testimony and exhibits presented by the Board at the hearing demonstrated that the evaluations conducted by the Board were appropriate, comprehensive and technically sound. No evidence was presented to the contrary. In fact, to date, M.M. has not identified any specific deficiencies in the Board's evaluations or articulated any disagreements with them.

Given these circumstances, I **CONCLUDE** that the Board has complied with all legal requirements for conducting evaluations; that the evaluations the Board conducted were appropriate and constitute an accurate and complete representation of L.M.'s abilities; and that no additional assessments or evaluations are needed or warranted under N.J.A.C. 6A:14-2.5(c)(1).

ORDER

For the reasons set forth above, I **ORDER** that the M.M.'s petition for an IEE at public expense is **DENIED** and the Board's Petition seeking to deny M.M.'s request for an IEE is **GRANTED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2025) and is appealable by filing a complaint and bringing a civil action either in the Law Division of the Superior Court of New Jersey or in a district court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. § 300.516 (2024). If the parent or adult student feels that this decision is not being fully implemented with respect to program or services, this concern should be communicated in writing to the Director, Office of Special Education.

June 23, 2025

DATE


DANIEL J. BROWN, ALJ

Date Received at Agency

June 23, 2025

Date Mailed to Parties:
dr

June 23, 2025

APPENDIX

Witnesses

For Petitioner:

None

For Respondent:

Kristen Atelek

Exhibits

For Petitioner:

None

For Respondent:

- R-1 Initial Identification and Evaluation Planning- Proposed Action dated September 5, 2023
- R-2 Parent's consent to CST evaluation dated September 5, 2023
- R-3 Psychological Evaluation of L.M. dated September 13, 2023
- R-4 Educational Evaluation of L.M. dated September 28, 2023
- R-5 Speech/Language Evaluation of L.M. dated October 17, 2023
- R-6 Occupational Therapy Evaluation conducted on October 4 and October 18, 2023
- R-7 Functional Assessment of L.M. dated November 1 dated 4, 2023
- R-8 Draft Individualized Education Program (IEP) dated November 30, 2023
- R-9 Social/Updated Functional Assessment of L.M. dated June 24, 2024
- R-10 Functional Behavior Assessment of L.M. dated June 13, 2024
- R-11 Draft IEP dated July 24, 2024
- R-12 Kindergarten Progress Report 2023-2024 school year
- R-13 First Grade Progress Report 2024-2025 school year
- R-14 Pediatric Neurodevelopmental Evaluation of L.M. on March 1, 2022
- R-15 Not In Evidence