



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

SUMMARY DECISION

OAL DKT. NO. EDS 03542-25

AGENCY REF. NO. 2025-38691

**PERTH AMBOY BOARD
OF EDUCATION,**

Petitioner,

v.

M.M. ON BEHALF OF E.R.,

Respondent.

Isabel Machado, Esq., for petitioner (Machado Law Group, attorneys)

M.M., respondent, pro se

Record closed: May 9, 2025

Decided: June 5, 2025

BEFORE **MICHAEL R. STANZIONE**, ALJ:

STATEMENT OF THE CASE

Petitioner, Perth Amboy Board of Education ("District"), requests an order to release student records and conduct updated evaluations of E.R. Respondent M.M. on behalf of E.R. has refused to cooperate with the District regarding the same. Is the District entitled to the records and to conduct its evaluations? Yes, there are no genuine issues

of material fact in this matter and the District's request should be granted. The District is entitled to the records and to do an evaluation of the student for placement. N.J.A.C. 6A:14-2.7(b).

PROCEDURAL HISTORY

On February 21, 2025, this matter was submitted to the Office of Administrative Law (OAL) directly as a district-filed direct transmittal. An adjournment form was completed at the first telephone conference on February 27, 2025, extending the resolution period to June 6, 2025. The petitioner filed a motion for summary decision on March 5, 2025. After no response was received from the pro se respondent a telephone conference was scheduled for April 29, 2025, and respondent failed to appear and never contacted the OAL. A second follow-up teleconference was scheduled for May 9, 2025, and again the respondent failed to appear. Again, the OAL was never contacted with an explanation for the failure to appear.

MOTION

The petitioner has filed a motion for summary decision, arguing that the undisputed facts demonstrate that an order to release student records and conduct evaluations of E.R. is appropriate.

Respondent has not offered any opposition to the petitioner's motion.

FINDINGS OF UNDISPUTED FACT

The following **FACTS** of the case are not in dispute:

1. E.R. is a fifteen-year-old student. P-1.
2. E.R. is currently eligible for special education and related services under the classification "specific learning disability." P-A.

3. Upon information and belief, E.R. has been diagnosed with attention deficit hyperactivity disorder (ADHD). Ibid.

4. On October 11, 2024, E.R. made false threats of a school shooting to a friend. The text was then shared on social media. P-B.

5. On October 22, 2024, a manifestation determination meeting was held, and it was determined that E.R.'s behavior was not a manifestation of the student's disability. P-C.

6. Also on October 22, 2024, an individualized education program (IEP) meeting was held, and the following evaluations were proposed:

Psychiatric Evaluation

Psychological Evaluation

Educational Evaluation

[P-D.]

7. On October 22, 2024, respondent signed a consent for the evaluations proposed. Ibid.

8. On October 22, 2024, an IEP was developed, which provided for interim home instruction. P-E.

9. Respondent has refused to cooperate in scheduling the evaluations. P-1.

10. To facilitate the completion of the evaluations, the District offered to have the evaluations conducted in the home setting or another alternative setting. Respondent has continued to refuse cooperation. P-1.

11. On November 14, 2024, a disciplinary hearing was held before the Board regarding E.R.'s false school-shooting threat. Respondent requested that E.R. be

placed in an alternative school. The Board subsequently granted respondent's request, contingent upon receipt of satisfactory psychiatric clearance that finds that E.R. is not a danger to himself or others, and identification of an appropriate placement by the District's child study team. P-F; P-G.

12. Respondent refused to accept the Board's determination and refused to sign authorization for the District to release E.R.'s student records to potential appropriate placements. P-1.

13. On December 18, 2024, another IEP meeting was held, and an IEP was developed which extended the interim home instruction pending identification of an appropriate out-of-district placement. P-A.

CONCLUSIONS OF LAW

Pursuant to N.J.A.C. 6A:14-2.3(a)(3), a district must obtain parental consent prior to conducting any assessments of a child as part of a reevaluation. When a district is unable to obtain the required consent, it may file a request for a due process hearing pursuant to N.J.A.C. 6A:14-2.7(b).

Here, on October 11, 2024, E.R. made false threats of a school shooting to a friend. The text was then shared on social media. P-B. On October 22, 2024, a manifestation determination meeting was held, and it was determined that E.R.'s behavior was not a manifestation of the student's disability. P-C. A reevaluation of E.R. was proposed to determine if any changes to the educational program were appropriate. Specifically, the IEP team proposed the following evaluations: psychiatric evaluation; psychological evaluation; and educational evaluation. P-D.

Despite providing written consent to the evaluations on October 22, 2024, respondent has since refused to cooperate in the scheduling of the same. To facilitate the completion of the evaluations, the District has offered to have the evaluations conducted in the home setting or another alternative setting. Respondent has refused to cooperate, which effectively negates the consent given on October 22, 2024. P-1.

On November 14, 2024, a disciplinary hearing was held before the Board regarding E.R.'s false threat of a school shooting. Respondent requested that E.R. be placed in an alternative school. The District subsequently granted respondent's request, contingent upon receipt of a satisfactory psychiatric clearance that finds that E.R. is not a danger to himself or others, and identification of an appropriate placement by the district's child study team. P-F; P-G.

As such, even if the IEP team had not already proposed additional evaluations of E.R. on October 22, 2024, pursuant to 34 C.F.R. § 104.35(a) (2025), an evaluation must be conducted "before taking any action with respect to the initial placement of the person in regular or special education and any subsequent significant change in placement." "Clearly, any change in a designated school amounts to a significant change in placement which requires a reevaluation" M.Y. by C.Y. & A.H. v. Fair Lawn Bd. of Educ., 1992 N.J. AGEN LEXIS 4737 (July 24, 1992).

The OAL has held that where sufficient cause exists the OAL may compel parents to cooperate with the district in securing a district-paid evaluation in conjunction with the development of an appropriate educational program and placement for a student. See Bridgewater-Raritan Reg'l Bd. of Educ. v. A.M., 2021 N.J. AGEN LEXIS 836 (Dec. 1, 2021); Union Twp. Bd. of Educ. v. J.E. & M.E. ex rel. J.E., 2003 N.J. AGEN LEXIS 169 (March 20, 2003); Washington Twp. Bd. of Educ. v. C.L. & A.L. ex rel. N.L., 2017 N.J. AGEN LEXIS 329 (May 19, 2017) (noting, "[t]his office has a long history of granting a school district's request for emergent relief to compel parental cooperation in the evaluation process. See Trenton Bd. of Educ. v. S.P. o/b/o B.P., 2001 N.J. AGEN LEXIS 225, OAL Dkt. No. EDS 874-01, Agency Dkt. No. 01-4968, Mar. 23, 2001; Dumont Bd. of Educ. v. G.C., 1995 N.J. AGEN LEXIS 137, OAL Dkt. No. EDS 1575-95, Agency Dkt. No. 95-6617E, Feb. 15, 1995; Gloucester City Bd. of Educ. v. A.H. o/b/o K.S., 2015 N.J. AGEN LEXIS 570, OAL Dkt. No. EDS 09165-15, Agency Dkt. No. 2015-23030, July 14, 2015; Edison Twp. Bd. of Educ. v. M.B. and P.B. o/b/o M.B., 2007 N.J. AGEN LEXIS 181, OAL Dkt. No. EDS 2319-07, Agency Dkt. No. 2009-12114, Apr. 11, 2007; and Lawrence Twp. Bd. of Educ. v. D.F. o/b/o D.F., 2007 N.J. AGEN LEXIS 26, OAL Dkt. No. EDS 12056-06, Agency Dkt. No. 2007-11904, Jan. 9, 2007.").

The IEP team, on October 22, 2024, proposed that E.R. undergo a reevaluation, including a psychiatric evaluation, a psychological evaluation, and an educational evaluation. P-D. The District's IEP team requires the updated evaluations to assess E.R.'s current academic and behavioral needs, and to consider appropriate educational programming and placement for the student, in relation to respondent's request for placement in an alternative school.

Pursuant to N.J.A.C. 6A:14-2.7(b), a district is permitted to request a due process hearing when the district board of education is unable to obtain the required consent to release student records.

On November 14, 2024, a disciplinary hearing was held before the Perth Amboy Board of Education regarding E.R.'s false threat of a school shooting. Respondent requested that E.R. be placed in an alternative school, in lieu of further disciplinary proceedings on the matter. The District granted respondent's request, contingent upon receipt of a satisfactory psychiatric clearance that finds that E.R. is not a danger to himself or others, and identification of an appropriate placement by the District's child study team. P-F; P-G.

Pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g and its implementing regulations at 34 C.F.R. Part 99 (2025), the release of student records generally requires written consent from the parent. However, pursuant to 34 C.F.R. § 99.31 (2025), there are exceptions to the requirement for parental consent, including where records are released pursuant to a judicial order.

Despite the request for an alternative school being made by the respondent, she has refused to provide consent for the District to send records to potential placements. The District has attempted to work with respondent to resolve the same; however, respondent has refused to cooperate. Respondent's continued refusal to cooperate with the District is delaying the identification of an appropriate alternative school placement for E.R.

Given these circumstances, I **CONCLUDE** that the District is entitled to and meets all the legal requirements to obtain updated evaluations to explore appropriate placements as requested by the respondent. Furthermore, I **CONCLUDE** that the District is entitled to the release of E.R.'s student records so that they may be sent to potential placements.

Under N.J.A.C. 1:1-12.5(b), 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." In this case, no genuine issue of material fact exists to challenge the appropriateness of the District's request for evaluations and the release of records. Therefore, I **CONCLUDE** that the Perth Amboy Board of Education is entitled to summary decision as a matter of law.

ORDER

I **ORDER** that petitioner's motion for summary decision 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 5, 2025

DATE


MICHAEL R. STANZIONE, ALJ

Date Received at Agency:

June 5, 2025

Date Mailed to Parties:

APPENDIX

Exhibits

For Petitioner:

- P-1 Certification of Marcia Stillo
- P-A Individualized Education Program dated December 18, 2024
- P-B Social media post of false threats
- P-C Manifestation Determination Form dated October 22, 2024
- P-D Reevaluation Planning proposed action notice dated October 22, 2024
- P-E Individualized Education Program dated October 22, 2024
- P-F Notice of disciplinary hearing dated November 11, 2024
- P-G Board disciplinary hearing decision letter dated November 25, 2024
- P-H New Jersey Courts printout of complaint detail

For Respondent:

None