



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 05585-25

AGENCY DKT. NO. 2025-38819

B.M. and M.M. ON BEHALF OF K.M.,

Petitioner,

v.

SUMMIT CITY BOARD OF EDUCATION,

Respondent.

B.M. and M.M. on behalf of **K.M.**, petitioners pro se

John Comegno, II Esq., (Comegno Law Group, P.C.) for respondent

Record Closed: September 12, 2025

Decided: October 27, 2025

BEFORE **ERNEST BONGIOVANNI, ALJ**

STATEMENT OF THE CASE

In accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1415, B.M. and M.M., (parents-father and mother/petitioners) requested a due process hearing on behalf of their son, K.M., claiming that respondent, the Summit City Board of Education, (respondent/district/Board) erroneously determined in its most recent IEP

meeting, that K.M. no longer needed special education services and was therefore ineligible for same in the student's junior year in High School 2024-2025.

PROCEDURAL HISTORY

On or about February 7, 2025, petitioners' request for Mediation was converted to a Request for Due Process. A Settlement conference was held but was unsuccessful. Thereafter, on March 25, 2025, the matter was transmitted to the Office of Administrative Law (OAL). Mediation sessions with the parties before an OAL Judge, the Honorable Julio Morejon, were held April 3 and April 29, 2025. Pre-hearing conferences before me were held on May 6 and June 27, 2025. A joint request for an Extension of time was granted by Order by me which set the dates for hearings on August 4 and 5, 2025. On August 4, 2025, the hearing was held, and the record was kept open until the receipt of post hearing briefs, at which time the record closed.

TESTIMONY

Respondent presented as witnesses, Angelica Da Silva, a school psychologist as an Expert Witness, and Christina Sara, a Learning Disabilities Teacher's Consultant, also as an expert witness. Petitioner's witness B.M., petitioner's father.

FACTUAL DISCUSSION AND FINDINGS

The parties first stipulated to, and I also **FIND** the following as **facts**:

1. K.M. was born on August 9, 2008.
2. In April 2011, K.M.'s parents referred him to the Child Study Team (CST) for evaluation due to concerns that he required special education and related services.
3. On May 6, 2011, an evaluation planning meeting was conducted and the CST proposed certain initial evaluations, including a collaborative evaluation to be conducted by a psychologist, L.D.T.C., Social Worker and Speech/Language

Specialist, and petitioners provided consent to conduct initial evaluations the same day. (J-1.)

4. The CST conducted evaluations on June 29, 2011, and July 6, 2011. (J-2)
5. On July 18, 2011, the CST considered the evaluations and found K.M. eligible for special education as a "Preschool Child with a disability." Specifically, at that time, and due to the impact of a disability affecting his learning requiring special education, K.M. was found eligible for special education and related services. (J- An IEP Meeting was held on July 18, 2011, where the District proposed an Individualized Educational Program (IEP) for K.M. (J-11).
6. An IEP Meeting was held on July 18, 2011, where the District proposed an Individualized Educational Program (IEP) for K.M. (J-11)
7. The parents consented to the proposed IEP services on July 18, 2011. (J-10).

2012-2013 IEP for Pre-School Disabled Services

8. On May 18, 2012, the CST held an annual review IEP meeting with Petitioners and developed an IEP for the 2012-2013 school year. The IEP went into effect after 15 days. (J-12, J-13).

2013 Reevaluation

9. On February 26, 2013, petitioners attended a reevaluation planning meeting with the CST and consented to reevaluations to determine continued eligibility for special education and related services. (J-57). This evaluation would consider eligibility beyond pre-school disabled, and whether K.M. required services for pre-school.
10. During March 2013, the CST conducted a psychological, educational and speech and language evaluation. (J-3).
11. On March 13, 2013, an occupational therapy services initial assessment of

K.M. was conducted by Trinitas Children's Therapy Services. (J-4).

12. On April 24, 2013, an eligibility conference was conducted by the CST team with petitioners. (J-15).
13. Based on the results of the testing done in the Re-Evaluation Report, petitioners were notified on April 24, 2013, that K.M. had "a specific learning disability in the area of written expression" that affected his educational performance. (J-14).
14. An IEP Meeting was held on April 24, 2013, where the District proposed an IEP for K.M. based on the eligibility category of specific learning disability. (J-16).
15. On May 5, 2013, parents were sent a notice regarding the proposed IEP services, and the IEP was implemented on May 9, 2013. (J-16, J-17).
16. On November 4, 2013, an amendment was made to the IEP to provide pull-out support for readiness skills 3x a week and in class support for readiness skills 2x a week, which Petitioners consented to on November 6, 2013. (J-58)

2014-2015 IEP; Kindergarten

17. On May 3, 2014, the CST held an annual review IEP meeting with Petitioners, and the IEP went into effect after 15 days. (J-18, J-19).
18. The IEP provided: in class support readiness skills, pull out support readiness skills, extended school year, speech therapy individual, occupational therapy, small group/individual, and speech therapy group. (J-18).

2015-2016 IEP; First Grade

19. On June 19, 2015, the CST held an annual review IEP meeting with Petitioners and the petitioners consent to the IEP on June 24, 2015. (J-20, J-21).
20. The IEP provided: replacement reading, replacement language arts, in class support math, speech therapy small group/individual, and consult for

occupational therapy. (J-20).

2016 Reevaluation and 2016-2017 IEP; Second Grade

21. On April 20, 2016, the CST informed Petitioners that the District proposed that K.M. continued to be a student with a disability and receive an IEP as he continues to be eligible for special education and related services with the classification of "Specific Learning Disability." (J-22, J-59).
22. On April 21, 2016, the CST held an Eligibility Determination and annual review IEP meeting with Petitioners, and the IEP went into effect after 15 days. (J-23, J-24, J-25, J-26, J-27).
23. The IEP provided: in-class resource (support) in math, pull-out resource replacement in reading and language arts, pull-out resource (support) in specialized reading, and speech - language therapy in group and individual. (J-2

2017-2018 IEP; Third Grade

24. On April 4, 2017, the CST held an annual review IEP meeting with petitioners and the Petitioners consent to the IEP on April 19, 2017. (J-28, J-29, J-30, J-31).
25. The IEP provided: pull-out resource (support) in specialized reading, pull-out resource replacement in reading and language arts, and in-class resource.

2018-2019 IEP; Fourth Grade

26. On April 3, 2018, the CST held an annual review IEP meeting with Petitioners, and the IEP went into effect after 15 days. (J-32, J-33, J-34).
27. The IEP provided: in-class resource (support) in math and reading, and pull-out resource replacement in language arts. (J-32).

2019 Reevaluation and 2019-2020 IEP; Fifth Grade

28. On November 11, 2018, petitioners attended a re-evaluation planning meeting with the CST and consented to re-evaluations to determine continued eligibility for special education and related services. (J-60).
29. During December 2018, the CST conducted an educational evaluation. (J-5).
30. During December 2018 and January 2019, the CST conducted a psychological evaluation. (J-6).
31. Based on the results of the testing done in the educational and psychological evaluation, petitioners were notified on January 22, 2019, that K.M. continued to be a student with a disability and receive an IEP as he continues to be eligible for special education and related services with the classification of "Specific Learning Disability." (J-35).
32. An IEP Meeting was held on March 29, 2019, where the District proposed an IEP for K.M. based on his eligibility category of specific learning disability. (J-36, J-38, J-39).
33. The parents consented to the proposed IEP services on March 29, 2019. (J-37).
34. The IEP provided: in-class resource (support) in math and reading, and pull-out resource replacement in language arts. (J-36).

2020-2021 IEP; Sixth Grade

35. On March 24, 2020, the CST held an annual review IEP meeting with Petitioners and the Petitioners consent to the IEP. (J-40, J-41, J-42, J-43, J-44).
36. The IEP provided: in-class resource (support) in math, language arts, science and social studies, and pull-out resource (support) in study skills. (J-40).

2021-2022 IEP; Seventh Grade

37. On March 24, 2021, the CST held an annual review IEP meeting with Petitioners, and the IEP went into effect after 15 days. (J-45, J-46, J-47)
38. The IEP provided: in-class resource (support) in math, science and social studies pull-out resource (support) in study skills pull-out resource replacement and individual counseling services. (J-48) (support) in math. Related services were not provided.

2022 Reevaluation and 2022-2023 IEP; Eighth Grade

39. No additional information/assessment/evaluations were conducted in 2022 to determine if K.M. continued to have a disability that adversely affected his educational performance and that he continues to be eligible for special education and related services.
40. On January 26, 2022, the CST held an annual review IEP meeting with Petitioners, and the IEP went into effect after 15 days. (J-48, J-49, J-50).
41. The IEP provided: in-class resource (support) in math, science and social studies, pull-out resource (support) in study skills, pull-out resource replacement in English and individual counseling services. (J-48).

2023-2024 IEP; Ninth Grade

42. On January 20, 2023, the CST held an annual review IEP meeting with Petitioners, and the IEP went into effect after 15 days. (J-51, J-52, J-53).
43. The IEP provided: in-class resource (support) in English, social studies and science, pull-out resource (support) in study skills, and individual counseling services. (J-51).

2024-2025 IEP; Tenth Grade

44. On January 12, 2024, the CST held an annual review IEP meeting with Petitioners, and the IEP went into effect after 15 days. (J-54, J-55, J-56).

45. The IEP provided: in-class resource (support) in English, social studies and science. (J-54).

2025 Reevaluation

46. During November and December 2024, the CST conducted a psychological evaluation. (J- 7).
47. During November and December 2024, the CST conducted an educational evaluation. (J- 8)

TESTIMONY

Respondent presented as witnesses, Dr. Angelica Da Silva, a school psychologist as an Expert Witness, and Christina Sara, a Learning Disabilities Teacher's Consultant, and Petitioner presented himself, K.W. as the only witness for petitioner. After reviewing the testimony of same, the facts and circumstances surrounding that testimony, the demeanor of the witnesses, and the likelihood and probability that the facts are as testified to by them, I **FIND** the following as additional **FACTS**:

48. It was stipulated and agreed that Angelica Da Silva, the District's Special Education case manager and school psychologist, is an expert in special education and school psychology, who testified, as follows, for the District.
49. Since 2011, she has managed a caseload of up to 70 students a year, while working for Summit the past 8 years she has managed between 30 and 40 students a year. She has evaluated "hundreds, thousands" of students as part of the child study team process weighing eligibility and designing special services for those eligible students.
50. Ms. Da Silva described a process where many students receiving special education "especially at the high school level" typically by tenth or eleventh grade have "closed the gap" between themselves and students in the general education program. These students not only close the gap in educational achievement but also "strengthen their self-advocacy skills."

51. Typically, declassified students “don’t need the specially designed instruction and changes in the curriculums that they did in elementary or at the middle school level.”
52. While she could not identify the percentages of students receiving special education services and who are classified, K.M. “was not the only student that we declassified this previous school year.”
53. In K.M.’s case, he has advanced as other special education students have to be “able to perform with accommodations’, strategies and supports in that general educational environment, “
54. K.M.’s special learning disability had been “reading comprehension at the high school level.” K.M.’s learning disabilities teacher, Ms. Sara looked “very closely” at K.M.’s reading skills reading fluency decoding” and comprehension. The Child Study team also spoke to K.M.’s teachers and conducted multiple observations.
55. Ms. Da Silva stated that this review led her to believe that “our testing showed information that we did not feel was honest.”
56. She explained there are three prongs to the criteria of classifying a special education student, the disability, the impact of that disability in the classroom and the need for a specifically designed instruction by a special education teacher.
57. She recalled that she had been K.M.’s case manager since second grade. At that age children, she said, are learning reading; they are not yet “reading to learn.” At that time, about ten years earlier, K.M. had a number of reading concerns so the IEP adopted specially designed instruction which called for pulling him out from the general education environment into small resource classrooms. He received specialized reading instruction and support from a teacher who had training in “Orton-Gillingham strategies.”

58. However, through the years K.M. “had overcome his difficulties” through the specially designed resources classes in elementary school; the fact that he no longer needs such services is a “success story.”
59. She explained that eventually K.M. no longer needed the resource room but instead his special education teacher worked within the general education classroom allowing K.M. the benefit of sharing the typical peer environment while still getting support “should a specific area or topic still require that modification.” Otherwise K.M. worked “elbow to elbow” with general education students in a general education classroom.”
60. In her opinion, as far back as fifth grade K.M. was already “closing the gap” between his status as a special education student and the general education population (citing a decline from a 22 point: discrepancy with assessments to an 18-point discrepancy that year.)
61. While K.M. was reevaluated as scheduled every three years, (e.g. in 2nd grade and 5th grade) the parents refused to retest and put it off until K.M. entered high school.
62. Immediately prior to the revaluations conducted in November and December, 2024, and as provided in the January IEP, K.M. was receiving support, i.e. a special education teacher was present in the science, social studies and general education classes K.M. attended. The special education teacher was not present in math class and there were no related services provided because K.M. “didn’t need any, said Ms. Da Silva.
63. The analysis of K.M.’s teachers such as in English showed, because of his development as a student, he had no need of special education at that point. The teacher was just using “accommodations,” e.g. “frequent check ins.”, written directions and graphic organizers.
64. The techniques being employed by K.M.’s teachers were also “accommodations,” e.g. “having material broken down into more manageable pieces,” having “directions read aloud and clarified.”

65. The evaluations showed in part from a review of all the teachers' notes that K.M. is being taught the same subject content and material as the general education students, however assessments items are sometimes rewarded or modified to increase K,M.'s comprehension. This is an accommodation.
66. None of K.M.'s teachers noted in the most recent IEP a need for a modification to any curriculum being taught to K.M.; all the classrooms where the special education teacher was present, the general education teacher used accommodations to help K.M., e.g. "verbal checks for understanding during class" and giving extra time to complete work during assessments.
67. Thus, K.M.'s educational needs were being met by techniques and strategies developed by the Intervention and Referral Services Committee and its accommodations and supports used in general education. Further the Committee newly named Multi-tiered system of supports provides pre-special education supports and accommodations for students of general education.
68. The history showed that as early as fourth grade K.M. was "closing the gap" between his educational needs vs the needs of general education students. He was considered eligible for special education even though there were only 18 points of discrepancy vs the traditional eligibility criteria of 22 points.
69. The January 2024 IEP done before revaluations which the parents had previously refused to permit, placed K.M. in the general education environment, in the modified classroom level, meaning the classrooms give teachers the ability to incorporate different teaching strategies and accommodations.
70. In advance of the next IEP, DaSilva told K.M.'s parents that he might not be classified any for special education any further.
71. As part of her educational evaluation K.M. scored a 73 IQ; this indicated K.M.'s score was inconsistent with years of performance in school. If that IQ was really a true indicator, K.M. would not be functioning under the curriculum he's had for years and would instead be in self-contained classrooms. Thus, she discounted the IQ test result.

72. Christine Sara also was qualified as an expert witness in Learning Disabilities Teaching Consultant and testified in said capacity for the District.
73. Both DaSilva and Sara discussed the psychological evaluation to see if there were any medical factors that might have affected his performance on the assessment e.g. due to his playing sports; K.M. mother indicated there was no trauma or concussion due to sports, but that K.M.'s anxiety had spiked post evaluation. Further a driver's education past over the weekend resulted in a panic attack due to how negatively the testing had impacted him and his anxiety at home.
74. K.M.'s father provided a letter to the District from one Dr. Chen which stated K.M. has anxiety and would benefit from a 504 plan. Further, the parents' input to the school expressed concern that while accommodations given to K.M. were helping him maintain outstanding grades, without such a plan, there was no certainty that such accommodations would stay in place.
75. However, as noted these accommodations are part of the general education instructional plan for students in Summit and a 504 plan is not an IEP.
76. At the eligibility meeting of the CST in December 2024, it was the unanimous opinion of all, save the parents that K.M. was no longer eligible for special education and related special education services.
77. Data, considered by Da Silva, noted that although reading comprehension being a weakness for K.M. was an assumption of past IEPs, in fact his functional performance was average or above average to his peers in his general education classroom.
78. Other evidence offered through teacher evaluations and comments presented consistently high performance by K.M. and does not mention the need for special education. Further, K.M. was performing at a high level (scoring in the 90s) even without using the extra time accommodations he is provided. His final grade of A in Chemistry and A in History, show K.M. can and does perform at a high level without modifying concepts as is done in special education.

79. Finally, K.M. has a consistent history of good attendance and DaSilva could not recall any concerns of K.M. being in class, peer interactions nor reports to her or to the Nurse about anxiety about testing or being in class.
80. Christine Sara also was qualified as an expert witness in Learning Disabilities Teaching Consultant and testified in said capacity for the District.
81. She expressed surprise at the December 2024 testing of K.M. as he performed much lower than previous testing, his academic functional performance showed far superior ability and that a student with these test results would instead of working in a general education class with his peers instead be in a self-contained classroom reading things such as their address.
82. She observed K.M. in the classroom and he was performed completely independently. She agreed that curriculum K.M. was being taught “was presented to the modified general education class...there was nothing modified specifically for him based on his needs for his disability.” Further he needed “no support.” She stated that even though his recent testing and functional performance did not match, K.M. was accessing all general education curriculum without additional modifications based on his IEP.
83. K.M.’s parents had identified study guides and extra time as being helpful to K.M. but these are accommodations offered all students “enrolled in a modified class as a general ed student.” Even modifying the number of answer choices while testing is an accommodation as he is still being tested on the same concepts, which is not a special education modification.
84. In sum, there was “no need for specially designed instruction” and “really no impact” of any disability on his ability to be taught and learn. She continued “So out of the three prongs, he really didn’t meet the first two.” K.M. was “accessing all the general ed curriculum without additional modification based on his IEP.”
85. Ms. Sara explained the differences between modified and unmodified testing. Her assessment showed that notwithstanding K.M.’s recent testing in the

evaluation process, he had been able to “demonstrate mastery of the content presented to him and his general education peers unchanged” This was consistent with all other relevant data.

86. I **FIND** Da Silva’s and Sara’s testimonies to be highly credible and for the most part hardly contested
87. B.M. testified that the District was ignoring the results of recent testing, He admitted his son is a success story and praised K.M.’s teachers and the child’s work ethic. However, he contended that K.M.’s learning disability, its impact and the positive impact of special education is well documented.
88. B.M. contended that parental input was not considered because that while anxiety may not impact K.M. at school, it does impact him at home. He further explained that K.M. probably did not put in his best efforts during the evaluations because he did not want to do the evaluations.
89. B.M. appeared to believe the testimony clarified the difference between a curriculum modification, and modifying the methods used to help the student learn which are accommodations. He still maintained that the testimony that K.M. was not getting specially designed instruction was a misrepresentation.
90. Ultimately B.M. had no explanation for K.M.’s IQ score going from 101 to 73, but hoped that the District’s contention that the evaluation did not accurately represent K.M. was correct.
91. I **FIND** and agree with the testimony of both experts for the District, which made a much more credible point that the assessment was inconsistent with all other relevant data and opinion, and the results were not credible, as K.M. could not possibly have functioned as well as he unquestionably had done the past several years, learning the general education curriculum and receiving outstanding grades while doing so. If the testing was accurate and K.M. had an IQ of 73, he would not be the high level and well-functioning student he obviously is.

92. Further, no other reasonable explanation other than the testing was more or less an inconsistent aberration and not a true depiction of K.M. was offered.

93. I also believe and **FIND** that the good intentions of K.M.'s parents, notwithstanding, their confusion over the differences of modified curriculum and misunderstandings of accommodations was not credible evidence refuting the expert opinions and overwhelming data supporting those opinions.

94. Further B.M. conceded that anxiety of K.M. during the evaluations could have been a factor in his performance. Even though he tried to maintain that his low score in the evaluation was accurate, he appeared to concede that K.M. could not have received such good grades with such a low IQ.

LEGAL ANALYSIS AND CONCLUSIONS

The Individuals with Disabilities Education Act (IDEA/the Act) 20 U.S.C. §§ 1401 et seq., requires New Jersey to effectuate procedures to effectuate procedures that ensure that all children with disabilities residing in the state have available to them a Free and Appropriate Public Education (FAPE) consisting of special education and related services provided in conformity with an Individualized Education Program (IEP). 20 U.S.C. §§ 1401 (9), 1412 (a) (1). The purpose of the IDEA is:

[T]o ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living.

20 U.S.C § 1400 (s) (1) (A) (9)

Under 20 U.S.C § 1412 (a) (1), any state qualifying for federal assistance under the IDEA must adopt a policy that assures all children with disabilities the right to a free appropriate education. Hendrick Hudson Cent. Sch. Dist. Bd. Of Educ. v. Rowley, 458 U.S. 176, 180-81, 102 S.Ct. 3034, 30037, 73 L Ed. 2d 690, 696 (1982) New Jersey follows the federal standard requiring that such entitlement "be sufficient to confer some educational benefit,"

although the State is not required to maximize the potential of handicapped children. Lascari v. Bd. of Educ. of Ramapo-Indian Hills Reg. Sch. Dist., 116 N.J. 30, 33 (1989). Further 3rd Circuit Court decisions have refined that standard to clarify that such educational benefit must be “meaningful”, “achieve significant learning” and confer “more than merely trivial benefit” s. v. Kingwood Twp. Bd. Of Educ. 205 F.3rd 572 (3rd Cir 2000); Ridgewood Bd. Of Educ. v. N.E. for M.E. 172 F.3rd 238 (3rd Cir. 1999) The quantum of educational benefit necessary to satisfy the IDEA varies with the potential of each pupil. Ridgewood, 172 F.3d at 247.

The basic tenant for that education is one which offers the student an opportunity for meaningful learning. considering the child’s potential, Ibid at 247. As stated in Ridgewood 172 F3d at 247 meaningful education must be more than de minimus. New Jersey has adopted the standards set forth by the U.S. Supreme Court and the 3rd Circuit in Lascari, wherein it was found that the district is not required to provide the best education available. See R.D. and A.D. obo C.D. v. Delran Bd. of Educ., 2001 WL 830871 (N.J. Adm. 2001). Therefore, if the District has, through its applicable IEP reasonably calculated to provide more than a de minimus benefit then the school District has met its obligation under the IDEA. The responsibility to deliver these services rests with the local public school district. N.J.A.C. 6A:14-1.1(d).

A student shall be determined eligible and classified eligible for special education and related services...when it is determined that the student has one or more of the disabilities defined in (c) (1) through (14) below, the disability adversely affects the student’s educational performance, and the student is in need of special education and related services. Classification shall be based on assessments conducted including assessment by child study team members and by other specialists...[.]

N.J.A.C. 6A 14-3.5 (c).

To be clear, in order to be eligible for special education and related services the student must (1) have one or more disabilities and defined in NJAC 6A 1402,5(c) (1) through (14); 2) the disability must adversely affect the student’s educational performance and 3) the student is in need of special education and related services. If any of these

three prongs are no longer satisfied, notwithstanding possibly years of receipt of special education classification, education and related services, the child must be declassified.

Such declassification is supported by case law. See L.L. and M. L. obo J.L. v. Toms River Regional BOE, OAL Dkt. Nos. 2022-34020 and 2022 -34059 (Nov. 2023); Middletown Twp BOE v. R.A. and B.A. obo H.A., OAL Dkt. No. EDS 00052-22 (Apr. 2022) See also R.S. and J.S. obo I.S. v Dunellen Boro BOE, OAL Dkt. Nos. EDS 07015-24 It is well settled that under the applicable Federal and NJ law, continued eligibility is improper. Here, K.M.'s disability simply does not adversely affect his performance, which has been mostly excellent, and requires no specially designed instruction.

Here the evidence established clearly and convincingly that prongs two and three of N.J.A.C. 6A:14-3.5 are no longer satisfied. That is the case here, with this student and at this time. Whether a disability affects the student's performance and the student's need for special education and related services is based of fluid facts and circumstances and not static information frozen in time. Even a disability itself may no longer exist. Here, it is contended that K.M. still has a Specific Learning Disability owing to weakness in reading comprehension. However, I have found that by clear and convincing, and in fact overwhelming evidence demonstrated that for the 2024-2025 school year, K.M. did not experience an adverse educational impact on account of that, or any other, disability. Further he is not in need of special education and related services. He obviously benefits from certain described accommodations as provided in the general education setting and curriculum and classes, where is thriving as a student. Further all of these accommodations can be provided through a 504 plan, as suggested by K.M.'s own psychologist. Again, it deserves emphasizing that these strategies as noted by the expert testimony of DaSilva and Sara are supports and accommodation and not special education. Further the curriculum content and the expectations for K.M. remain the same for typical peers in the general education environment. I **FIND** it significant that the respondent's witnesses were very familiar with the student, his past IEP's and evaluations, and his performance as a student. The only contrary evidence was provided solely the parents thoughts and feelings, I find B.M.'s analysis and testimony failed to give a complete picture of K.M. To his credit, B.M. admitted the spirit of cooperativeness of the Child Study Team throughout the years. He did not give a credible explanation for

his theory that the CST made a “complete 180.” In fact, it was clear the direction where the CST was headed by the programs it had designed in recent years. Therefore, for all the above facts and circumstances and explanations supported completely by the evidence, K.M.’s declassification from special education was appropriate.

Therefore, I **CONCLUDE** that the declassification from special education of K.M. was appropriate, and does not equate to a denial of FAPE.

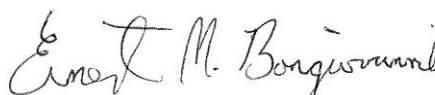
ORDER

Based on the foregoing, it is hereby **ORDERED** that petitioner’s request for Due Process is **DISMISSED** and relief requested is **DENIED**. Any other relief sought by the petitioner not specifically mentioned is also **DENIED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2024) 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.

October 27, 2025

DATE



ERNEST BONGIOVANNI, ALJ

Date Received at Agency:

10/27/25

Date Mailed to Parties:

10/27/25

id

APPENDIX

LIST OF WITNESSES

For Petitioner:

B.M.

For Respondent:

Dr. Angelica Da Silva,
Christine Sara,

LIST OF EXHIBITS IN EVIDENCE**

Joint Exhibits

- J-1 May 6, 2011, Signed Parental Notice of Proposed Initial Evaluation
- J-2 2011 Collaborative Evaluation Report
- J-3 2013 Collaborative Evaluation Report
- J-4 March 13, 2013, Occupational Therapy Initial Assessment
- J-5 2018 Educational Evaluation
- J-6 2019 Psychological Evaluation
- J-7 2024 Psychological Evaluation
- J-8 2024 Educational Evaluation
- J-9 June 18, 2011, Parental Notice of Eligibility Letter
- J-10 July 18, 2011, IEP
- J-11 July 18, 2011, Notice of IEP Program to Parent
- J-12 May 18, 2012, IEP
- J-13 May 18, 2021 Notice of IEP Program to Parent
- J-14 April 24, 2013, Parental Notice of Eligibility

- J-15 April 24, 2013, Record of Eligibility Conference Participants and Electronic Means Participants
- J-16 May 24, 2013, IEP
- J-17 May 3, 2013, Notice of IEP Program to Parent
- J-18 April 11, 2014, IEP
- J-19 April 22, 2014, Notice of IEP Program to Parent
- J-20 July 19, 2015, IEP
- J-21 June 29, 2015, Notice of IEP Program to Parent
- J-22 April 20, 2016, Reevaluation Eligibility Determination – Eligible without IEP Development Letter
- J-23 April 21, 2016, Eligibility Determination Meeting Attendance Sheet
- J-24 April 21, 2016, IEP
- J-25 April 21, 2016, Annual Review Attendance Sheet
- J-26 April 21, 2016, Annual Review and Eligibility Determination Meeting Electronic Means Participants
- J-27 April 21, 2016, Notice of IEP Program to Parent
- J-28 April 6, 2017, IEP
- J-29 April 19, 2017, Signed Consent to Implement IEP prior to 15 days
- J-30 April 6, 2017, Annual Review Attendance Sheet
- J-31 April 24, 2017, Notice of IEP Program to Parent
- J-32 April 3, 2018, IEP
- J-33 April 3, 2018, Annual Review Attendance Sheet
- J-34 April 23, 2018, Notice of IEP Program to Parent
- J-35 January 22, 2019, Reevaluation Eligibility Determination
- J-36 March 29, 2019, IEP
- J-37 March 29, 2019, Signed Consent to Implement IEP prior to 15 days

- J-38 March 29, 2019, Annual Review Attendance Sheet
- J-39 March 29, 2019, Annual Review Meeting Electronic Means Participants
- J-40 March 24, 2020, IEP
- J-41 March 24, 2020, Signed Consent to Implement IEP prior to 15 days
- J-42 March 18, 202 Annual Review Meeting Electronic Means Participants
- J-43 March 24, 2020, Annual Review Attendance Sheet
- J-44 March 24, 2020, Notice of IEP Program to Parent
- J-45 March 24, 2021, IEP
- J-46 March 24, 2021, Annual Review Attendance Sheet
- J-47 April 19, 2021, Email from Alice Englese to Parents regarding IEP available on Genesis
- J-48 January 26, 2022, IEP
- J-49 January 26, 2022, Annual Review Attendance Sheet
- J-50 February 17, 2022, Email from Alice Englese to Parents regarding IEP available on Genesis
- J-51 January 20, 2023, IEP
- J-52 January 20, 2023, Annual Review Attendance Sheet
- J-53 January 20, 2023, Email from Alice Englese to Parents regarding IEP available on Genesis
- J-54 January 12, 2024, IEP
- J-55 January 12, 2024, Annual Review Attendance Sheet
- J-56 February 14, 2024, Email from Alice Englese to Parents regarding IEP available on Genesis
- J-57 February 26, 2013, Signed Parental Notice of Proposed Evaluation
- J-58 November 4, 2013, Consent to Amend IEP without a Meeting
- J-59 April 21, 2016, Reevaluation Planning Proposed Action
- J-60 November 26, 2018, Reevaluation Planning Proposed Action

Petitioner's Exhibits

- P-6 Summit Public School notes regarding call to discuss upcoming Reevaluation process dated 10/15/24
- P-7 E-mail Correspondence from petitioner requesting data on modifications and accommodations dated 10/29/24
- P-8 Summit Public School notes regarding call to discuss K.M.'s assessment results, dated 11/25/24
- P-9 K.M.'s English Unit 1 Quiz: Modified, dated 9/23/24
- P-10 English Unit 1 Test: Example of Non-Modified Quiz
- P-11 K.M.'s Chemistry Unit 1 Test: Modified, dated 10/1/24
- P-12 Chemistry Unit 1 Test: Example of Non-Modified Test
- P-13 Modified Chemistry chapter two quiz, dated 10/14/24
- P-14 Nonmodified 10/14/24 chemistry chapter two quiz
- P-15 History Chapter 9 Quiz: Modified test, dated 4/30/25
- P-16 History Chapter 9 Quiz Example of Modified Quiz
- P-17 E-mail correspondence regarding K.M.'s challenges with Math Word problems, dated 9/20/24
- P-18 E-mail correspondence regarding K.M.'s proactive outreach to Special Education Teacher, dated 11/12/24
- P-19 E-mail correspondence regarding need for modifications for Critical Reading Comprehension, dated 2/25/25
- P-20 E-mail correspondence regarding ad-hoc modifications provided by teachers on Final Exams, dated 7/16/25
- P-22 English Mid-Term Exam: Critical Reading Challenges, dated 1/28/25

Respondent's Exhibits

- R-1 CV of Angelica Da Silva
- R-2 October 11, 2024, invitation to revaluation planning meeting.
- R-3 Revaluation planning meeting attendance sheet

- R-4 Planning document
- R-5 Parent consent to evaluate
- R-6 Contact log
- R-7 E-mail from N. Smith to Parents with Psychological and Educational Evaluation, dated 12/9/24
- R-8 Invitation to Eligibility determination meeting
- R-9 December 16, 2024, letter from Touchpoint Pediatrics
- R-10 December 20 eligibility determination meeting attendance sheet
- R-11 Declassification Determination letter
- R-12 Internal Contact Log of Lucia Diaz-Romero and M.M., dated 11/15/21
- R-13 Grade ten report card
- R-14 Nonmodified test
- R-15 Modified test
- R-16 Nonmodified test
- R-17 Modified test
- R-18 Nonmodified test
- R-19 Modified test
- R-20 Nonmodified test
- R-21 Modified test
- R-22 Nonmodified test
- R-23 Modified test
- R-24 CV of Christina J. Sara
- R-25 CV of Gregory Margolis
- R-26 Transcripts for grades 6, 7 and 8
- R-27 Grade ten final grades

** The nonsequential numbering of exhibits reflects the fact that other pre-marked

exhibits were not identified or not entered into evidence.