



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION GRANTING
PETITIONER'S MOTION FOR
SUMMARY DECISION

OAL DKT. NO. EDS 05609-25

AGENCY DKT. NO. 2025-38880

**HOLMDEL TOWNSHIP BOARD
OF EDUCATION,**

Petitioner,

v.

K.C. AND M.C. ON BEHALF OF C.C.

Respondents.

Eric L. Harrison, Esq., for petitioner (Methfessel & Werbel, P.C, attorneys)

K.C. and M.C., respondents, pro se

Record Closed: May 16, 2025

Decided: June 23, 2025

BEFORE **GAURI SHIRALI SHAH, ALJ**

STATEMENT OF THE CASE

In October 2024, petitioner, Holmdel Township Board of Education, conducted an initial educational and an occupational therapy evaluation. No evidence exists that Holmdel conducted them improperly. Are respondents entitled to an independent

educational evaluation (IEE) at no cost? No. Upon completion of an initial evaluation or reevaluation, an IEE shall be provided at no cost to parents unless the district board of education initiates a due process hearing to show that its evaluation is appropriate. N.J.A.C. 6A:14-2.5(c)(1).

PROCEDURAL HISTORY

On March 12, 2025, respondents K.C. and M.C. emailed Holmdel a request to provide their child, C.C., with a neuro-optometric IEE at public expense. Holmdel denied the request. Holmdel had already conducted an educational evaluation and an occupational therapy evaluation in October 2024 and had already considered a private neuropsychological evaluation from fall 2023. Holmdel also noted that the evaluation sought was a medical evaluation, not an educational evaluation.

On April 1, 2025, Holmdel initiated a due process hearing under N.J.A.C. 6A:14-2.5(c)(1) to show that its evaluations were appropriate.

On that same date, the Office of Special Education transmitted the case to the Office of Administrative Law (OAL) under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, and the Special Education Program, N.J.A.C. 1:6A-1.1 to -18.4.

On April 8, 2025, I held an initial prehearing telephone conference to discuss the case and schedule a hearing date. At that time, Holmdel advised of its intent to file a motion for summary decision under N.J.A.C. 1:1-12.5. The parties also agreed to discuss settlement and attend mediation, so an additional conference date was set.

On April 24, 2025, I held another conference. The parties had agreed to neither a settlement conference nor a mediation conference, so, I set a briefing schedule for Holmdel's motion for summary decision. At that time, the parents advised that they would file a cross-motion for summary decision. Meanwhile, I scheduled a hearing for July 23, 2025.

On May 6, 2025, the parents withdrew their request for a neuro-optometric IEE and requested that Holmdel conduct a neuropsychological IEE at public expense. On May 7, 2025, Holmdel advised it had considered the request but found the IEE was not necessary to continue providing special education services to C.C., including determining classification or appropriate educational programming. Holmdel requested, and the parents consented, to an amendment of the due process petition.

On May 12, 2025, Holmdel filed an amended due process petition for a determination that the evaluations it had conducted were appropriate and that it was not obligated to provide the IEE.

On May 14, 2025, the parents filed a motion to compel the neuropsychological IEE and a preemptive opposition to Holmdel's motion for summary decision.

On that same date, the parents also filed a motion to compel a privilege log from Holmdel for email communications that were withheld by Holmdel based upon attorney-client privilege or because they contained confidential information about students other than C.C.

On May 16, 2025, Holmdel filed its motion for summary decision and opposition to the parents' motions to compel IEE and a privilege log.

FINDINGS OF FACT

Based upon papers submitted in support of and in opposition to the motion for summary decision, including the certification of Amanda Lamoglia, I **FIND** the following as **FACT**:

Background and Prior Evaluations

1. Holmdel operates K-12 schools within the Holmdel School District (Holmdel).
2. The parents and C.C. reside in Holmdel.

3. C.C. is a fifth grader currently attending school in Holmdel for the 2024–2025 school year.
4. C.C. is eligible for and receives special education and related services at her Holmdel school under the classification category of Other Health Impairment.
5. From 2022–2024, for third and fourth grade, C.C. attended the Ranney School, a private school located in Tinton Falls, New Jersey, where her brother was also a student.
6. Upon entering third grade at the Ranney School during the 2022–2023 school year, C.C. was identified as needing academic support. (P-B.)
7. During the summer of 2023, the parents conducted a private neuropsychological evaluation with Megan A. Brown, PhD, a licensed psychologist, who was recommended by the Ranney School. (P-B, P-C.)
8. The reason for the referral was to evaluate C.C.’s “present level of functioning to better understand her unique pattern of thinking and reasoning as it relates to [C.C.’s] observations of inconsistent attention and behavior.”
9. Brown conducted testing of C.C. on July 25, 2023, and July 26, 2023, which included:
 - a. A clinical interview;
 - b. Weschler Intelligence Scale for Children-V;
 - c. Woodcock-Johnson Tests of Achievement-Fourth Edition-selected subtest;
 - d. Comprehensive Test of Phonological Processing, Second Edition;
 - e. Test of Word Reading Fluency-Second Edition;
 - f. Development Neuropsychological Assessment, Second Edition (select subtests);
 - g. Sensory Profile 2 Caregiver Questionnaire; and
 - h. Behavior Assessment System for Children, Third Edition.
10. On September 15, 2023, Brown also observed C.C. in her fourth-grade classroom at the Ranney School.
11. As a result of her testing and observation, C.C., Brown issued evaluation report later that month. (P-C.)
12. In her 2023 report, Brown diagnosed C.C. with visual processing disorder, identified her strengths and weaknesses, and provided recommendations to help C.C. navigate school with the disorder.

13. These recommendations included smaller class sizes and specific strategies such as additional time to complete tests and quizzes, increasing font size and increased white space on papers, and providing a fidget for daily use.
14. On December 1, 2023, the Ranney School found C.C. eligible for special education and related services and developed an Individual Services Plan (ISP).
15. The ISP relied on Brown's diagnosis and recommendations and a social assessment conducted by Michelle Frattaroli, LCSW. (P-D.)
16. The parents consented to the ISP, and it was implemented on December 4, 2023.
17. The ISP listed two goals and objectives in math and a list of accommodations for C.C., most of which appear in Brown's neuropsychological evaluation report.
18. The ISP offered supplemental small group instruction once a week in math.

Petitioner's Evaluations

19. On August 23, 2024, the parents emailed Holmdel and requested that the Child Study Team (CST) develop an IEP for C.C. using only the Ranney School ISP and medical diagnosis of visual processing disorder by Brown. (P-E, P-F.) The parents did not consent to any additional evaluations at that time. (P-E.)
20. The parents also provided Dr. Brown's evaluation to Holmdel for consideration in developing the IEP.
21. On September 17, 2024, the parents consented to an educational and occupational therapy evaluation by Holmdel.
22. On October 17, 2024, the CST conducted an educational evaluation of C.C. (R-A.)
23. The educational evaluation was conducted by Jaclyn Gargano, LDT-C, and consisted of the following:
 - a. Standardized testing with the Weschler Individual Achievement Test, Fourth Edition (Weschler test);
 - b. Standardized testing with the Test of Written Language, Fourth Edition (TOWL4);
 - c. Classroom observation of C.C.;
 - d. Testing observation and student interview;
 - e. Review of educational history and records;

- f. Review of prior interventions; and
 - g. Review of prior standardized testing from 2017 through 2024.
- 24. An occupational therapy evaluation was conducted by therapist Jackie Matthius, MS/OTR/L over the course of three days. The first evaluation date was September 27, 2024, followed by October 4, 2024, and concluded with a classroom observation on October 10, 2025. (R-B.)
- 25. An October 17, 2024 report summarized Matthius' conclusions based on her observation of C.C. and the administration of two standardized tests, the WOLD sentence copying test, and the Test of Visual Perception Skills, Fourth Edition.
- 26. On October 30, 2024, based on the evaluations, the CST proposed an initial IEP for C.C.
- 27. Based on emails between the parents and Holmdel, several requests were made to Holmdel for a revised IEP which included additional services or goals. (P-O, P-M.) These requests ranged from tracking how often C.C. experienced a headache, stomachache or nausea at school, to optometric vision therapy, and for clarification of certain goals identified in the IEP. (P-M.)
- 28. None of the emails from the parents disagree with the evaluations conducted by Holmdel or the personnel who conducted these evaluations. (P-O, P-M).
- 29. Holmdel consistently and timely responded to the parents' requests and emails. (P-M.)
- 30. On December 4, 2024, parent K.C. consented to the implementation of the initial IEP. (Exhibit R-D.)
- 31. The IEP was implemented on December 6, 2024. (P-K.)
- 32. On March 15, 2025, with the parents' consent, Holmdel offered C.C. a trial of pull-out resource classes in English/Language Arts (ELA) and Math.
- 33. On April 28, 2025, parent K.C. and Holmdel staff, including C.C.'s teachers, counselor, and case manager, participated in a lengthy IEP meeting where it was reported that C.C. is making meaningful progress under the trial program.
- 34. Specifically, C.C. reads at a fifth-grade level, has greatly improved spelling, and was improving her writing skills with the organization tools being provided to her.
- 35. Issues that C.C. still had with capitalization and punctuation were identified, and at the parent's request, the parties agreed to include these issues as new goals in a modified IEP.

36. In math, C.C.'s improvement in specific areas were noted, while areas that still needed work, such as longer word problems, were identified by the math teacher.
37. All the teachers and the counselor who participated in the April 28, 2025 IEP meeting, described C.C. as a student who is engaged and curious in class, and gets along with her peers, both in the general education and pull-out resource classrooms.
38. C.C. is currently making meaningful educational progress.
39. A March 21, 2025 quarterly progress report also identifies C.C.'s progress in a number of areas in her classes, while noting those that were still in progress towards improvement.
40. On April 28, 2025, the IEP was amended, with the parents' consent, to continue the pull-out classes and added goals for punctuation and capitalization as requested by the parents.

CONCLUSIONS OF LAW

I. Motions to Compel IEE and for Summary Decision

A. The Request for IEE

As part of the evaluation process in special education, a school is required to use a variety of assessment tools and strategies to gather relevant information about a child, including information provided by the parent that may assist in determining if the child has a disability, and information related to enabling a student to be involved in and progress in the general education curriculum. N.J.A.C. 6A:14-2.5(a). The process 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). The evaluation needs to be sufficiently comprehensive to identify the student's special education and related services needs. N.J.A.C. 6A:14-2.5(b)(7).

Once a school district has completed an initial evaluation, a parent can request an IEE at public expense if there is disagreement with the initial evaluation. N.J.A.C. 6A:14-2.5(a). However, the parent must state the issue of concern or disagreement with the

initial evaluation and specify the assessment sought. 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). 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).

In this case, on August 26, 2024, the parents initially requested that Holmdel develop an IEP for C.C. using only the ISP from the Ranney School and her medical diagnosis from Brown. The parents also provided Brown's 2023 report of her neuropsychological evaluation of C.C. to Holmdel. (P-E, P-F). Thereafter, on September 17, 2024, the parents consented to additional evaluations by the school. (P-D). The school conducted an educational evaluation in September 2024 and an occupational therapy evaluation in October 2024. The parents did not object to the evaluations, their findings, or to the qualifications of the people conducting these evaluations.

An October 30, 2024 proposed initial IEP was developed by Holmdel based on all the evaluations, including Brown's neuropsychological evaluation and parental input. The parents participated in the IEP process as reflected by the many emails between the parents and Holmdel. On December 4, 2024, the parents consented to the IEP.

While parents seek a neuropsychological IEE at public expense, they have presented no competent evidence to support that the initial evaluations conducted by Holmdel are inappropriate. Since the implementation of the initial IEP, Holmdel has received and responded to the parents' continued requests and concerns consistently. Holmdel has suggested educational changes to benefit C.C., including trialing pull-out classes in ELA and math for C.C. As of the April 28, 2025 IEP meeting, C.C. is progressing academically and socially under the nimble changes put forth by Holmdel. I **CONCLUDE** that the evaluations conducted and considered by Holmdel were comprehensive and appropriate as required by N.J.A.C. 6A:14-2.5(b)7 and (c)1, as reflected in C.C.'s educational improvement. I **FURTHER CONCLUDE** that no additional assessments or evaluations are necessary or warranted under N.J.A.C. 6A:14-2.5(c)(1).

B. Summary Decision

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.” No genuine issue of material fact exists, especially because respondents submitted no affidavit or certification to dispute the facts Holmdel asserts. Since no genuine issues of material fact exist, and since I concluded that the evaluations were appropriate, I **CONCLUDE** that Holmdel is entitled to summary decision as a matter of law, and that and that this case is dismissed.

Since this case is dismissed, I do not need to address the other motions.


ORDER

I **ORDER** that Holmdel’s motion for summary decision is **GRANTED** and that this case is **DISMISSED**.

This decision is final under 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 (2025). If the parent or adult student believes 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


GAURI SHIRALI SHAH, ALJ

Date Received at Agency:

Date E-Mailed to Parties:

GSS/nn

APPENDIX

Witnesses

For Petitioner:

None

For Respondent:

None

Exhibits

For Petitioner:

- P-A Educational Evaluation, dated October 17, 2024
- P-B Occupational Therapy Evaluation, dated October 17, 2024
- P-C Neuropsychological Evaluation of Dr. Brown, dated September 2023
- P-D Initial IEP, dated October 30, 2024
- P-E Emails from K.C., dated March 12, 2025 and May 6, 2025

For Respondent:

- R-A Occupational Therapy Evaluation, dated March 3, 2019
- R-B Emails between K.C. and Raney School staff, dated November 22, 2022 and November 30, 2022
- R-C Neuropsychological Evaluation of Dr. Brown, dated September 2023
- R-D Individualized Services Plan, dated December 4, 2023
- R-E Emails from K.C., dated August 23, 2024 and August 26, 2024
- R-F Email Response from Holmdel School to K.C., dated August 26, 2024
- R-G Email exchanges regarding tiered support silo between K.C. and Holmdel from October 18, 2024 through October, 26, 2024
- R-H Educational Evaluation, dated October 17, 2024
- R-I Email from K.C., dated September 12, 2024
- R-J Occupational Therapy Evaluation, dated October 17, 2024
- R-K Revised IEP, dated April 28, 2025

- R-L Parents response to proposed initial IEP, dated November 1, 2024
- R-M Emails between K.C. and Holmdel from September 12, 2024 through April 10, 2025
- R-N C.C. Classwork Examples
- R-O Parents Response to Initial IEP, dated November 15, 2024
- R-P C.C. Physical Condition Checklist
- R-Q Email from K.C., dated April 9, 2025
- R-R Email from K.C., dated April 16, 2025
- R-S Progress Report for IEP Goals, dated March 21, 2025
- R-T Holmdel's summary of April 28, 2025 IEP meeting
- R-U K.C.'s response to Holmdel Summary of April 28, 2025 IEP meeting