



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**FINAL DECISION**

OAL DKT. NO. EDS 07009-25

AGENCY DKT. NO. 2025-39009

**PRINCETON PUBLIC SCHOOLS  
BOARD OF EDUCATION,**

Petitioner,

v.

**G.O. and S.O. o/b/o S.O.,**  
Respondents,

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**Brett Gorman**, Esq., for petitioner (Gorman, D'Anella and Morlock, LLC,  
Attorneys)

**G.O. and S.O.**, petitioners, pro se.

Record Closed: September 8, 2025

Decided: September 18, 2025

BEFORE **DEAN J. BUONO**, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Petitioner, Princeton Public Schools Board of Education (District) filed a Motion to Compel parental consent to evaluate the student S.O. for special education eligibility under the Free Appropriate Public Education (IDEA), pursuant to N.J.A.C. 6A:14-

2.3(a)(1) and (c), where the respondent parents refused an initial evaluation but previously acknowledged the student's potential disability using a Section 504 plan.

### **FACTUAL BACKGROUND**

S.O. is an eighth-grade student in the District. He has continuously not met grade-level standards in a variety of subject areas: Math, English, Science, Civics, and French. The District was aware of S.O.'s difficulties and implemented general education support in an attempt to mitigate them. Because of S.O.'s academic difficulties, the District's Child Study Team (CST) convened in February 2025, including S.O.'s parents in a meeting. The CST then requested parental consent to conduct five evaluations: an Educational Evaluation, a Psychological Evaluation, a Speech and Language Evaluation, a Psychiatric Evaluation, and a Social History. In the request, the CST reiterated potential areas of disability raised during the meeting with S.O.'s parents, including disabilities in the areas of speech and language, emotional regulation, specific learning disability, or another health impairment or issue, that might cause S.O.'s academic difficulties. The request explained that the evaluations were necessary and essential to determine S.O.'s academic, social, and behavioral needs in order to move forward with accommodations and enable S.O. to make academic progress. After receiving the request, S.O.'s parents declined to permit the evaluations.

S.O. continued to struggle with academics, and in March was marked as failing Math, English, Science, and Civics, and nearly failing French. The District implemented a "student contract" entered into by S.O., his parents, and his teachers to encourage the use of general education accommodations like seeking additional help and engaging in self-reflection. Following the student contract, S.O.'s parents and the District agreed to a temporary 504 Plan. The 504 Plan acknowledges that S.O. has an unspecified disability that affects his learning and that there is a desire for the District to provide accommodations, pursuant to Section 504, to assist S.O. The 504 Plan lists the following accommodations:

Extended time on assessments; preferential seating;  
information chunking; emphasis on key concepts; repeated

and clarified instructions; study guides; word banks; step-by-step examples; frequent check-ins; paper-based assignments; prompts to recheck work; small group support; and clear, concise instructions.  
[Petitioner's Motion at 3.]

All of the accommodations listed in the 504 Plan appear to be general education accommodation.

The District now moves to compel parental consent for the five recommended evaluations to determine the cause of S.O.'s issues and his eligibility for special education services under the IDEA.

### **LEGAL ANALYSIS AND CONCLUSION**

The scope of Section 504 is broader than that of the IDEA. Under Section 504, both individuals with a disability and individuals who are perceived as having a disability are covered, even if the perception is incorrect and the individual is not actually disabled. Muller v. Comm. On Special Edu. Of the East Islip Union Free Sch. Dist., 145 F.3d 95, 100 (2d Cir. 1998). Students who are eligible for special education services under the IDEA are also covered by Section 504; however, there may be general education students who are covered by Section 504 and ineligible for special education under the IDEA. Section 504 defines "handicapped" as "any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment." 34 C.F.R. 104.3(j)(1).

Under Section 504, a school district must offer an appropriate education that "reasonably accommodate[s] the needs of the handicapped child so as to ensure meaningful participation in educational activities and meaningful access to educational benefits." Ridley Sch. Dist. v. M.R., 680 F.3d 260, 280-81 (3d Cir. 2012). However, Section 504 does not require "substantial" changes to a school's programs. Ibid. Section 504 also does not require a school to provide a covered student with special education services. The school may provide general education or special education

and related services, like modifications or accommodations to the general education curriculum, depending on the student's needs. 34 C.F.R. 104.33 (b)(1).

Pursuant to the IDEA, school districts are obligated to evaluate students that they reasonably suspect of having a disability that would qualify them as eligible for special education services under the IDEA. See 20 U.S.C. 1412(a)(3)(A). If a student's parents refuse to permit the school district to assess the student as part of an initial evaluation for IDEA eligibility, a school district may request a due process hearing to circumvent the parents and obtain consent. N.J.A.C. 6A:14-2.3(c), -2.7(b). School boards have an obligation to determine if a student needs special education services under the IDEA via an initial evaluation of the student. Ramsey Bd. of Educ. v. M.A., EDS 9631-05, Initial Decision (Oct. 11, 2005). Even if a parent understandably "believes their child does not need special education," a school board must provide a free and appropriate public education to that student. Ibid.

In general, districts are afforded leeway to conduct an initial evaluation even without parental consent. See Manalapan-Englishtown Regional Bd. of Educ. v. S.D., EDS 10972-18, Initial Decision (Oct. 11, 2018), Middletown Twp. Bd. of Educ. v. G.S., EDS 16215-18, Initial Decision (Mar. 18, 2019). Poor classroom performance, distraction, and noticeably decreased grades may signal the need for an initial evaluation to determine eligibility for special education services. Middletown v. G.S., Initial Decision; see also Ramsey v. M.A., Initial Decision. Even minor academic issues may permit a board to conduct an evaluation to preemptively understand why a student is struggling and correct the issues. Ramsey v. M.A., Initial Decision.

In G.S., a student whose performance and grades materially decreased was given an "Intervention and Referral Services" plan, which did not require parental consent, intended to identify and resolve her issues that "may not result from a disability or disabling condition" prior to intervention by a CST. After implementing the plan, the student was ultimately referred to the CST, which recommended four evaluations: psychological, educational, social history, and neurological. The parent refused to consent to the neurological evaluation, but after the other three evaluations were conducted, the CST concluded that the student was not eligible for special education

services. The failure to conduct the neurological evaluation prevented “pertinent information” that “would answer the question of why G.S. continued to struggle in the classroom.” The ALJ granted the board’s request to compel consent for the neurological evaluation, finding the evaluation necessary to understand “the true nature and extent of [the student’s] needs” and to provide the student a FAPE.

If, after an evaluation is conducted,

a parent refuses special education and related services on behalf of a student, the district board of education shall not be determined to have denied the student a free, appropriate public education because the student failed to receive necessary special education and related services, nor shall the district board of education be determined in violation of its child-find obligation solely because it failed to provide special education or related services to a student whose parents refused to provide consent for implementation of the initial IEP.

[N.J.A.C. 6A:14-2.3.]

Here, S.O.’s parents have already consented to the creation of the Section 504 plan that identifies S.O. as disabled. S.O.’s classroom performance fails to meet grade-level standards in numerous subject areas, even after academic interventions. Regardless of whether an evaluation reveals that S.O. is, in fact, disabled, he is perceived as such and thus covered by Section 504. He is entitled to meaningful participation in and access to educational benefits. Per the requirements of Section 504, the District must reasonably accommodate S.O.’s needs. To the District, it appears that to reasonably accommodate S.O., the District must implement special education services pursuant to the IDEA. The only way to know for sure whether special education services will serve as a reasonable accommodation and meet S.O.’s needs is to conduct an initial evaluation. Further, the District’s desire to evaluate S.O. also ensures that it is in compliance with the child-find requirements of the IDEA. The District reasonably suspects that S.O. is eligible for special education services; indeed, S.O.’s parents acknowledged that S.O. has some form of disability when they signed the temporary Section 504 plan. It is possible, but unlikely, that this student is only

covered by Section 504 and not the IDEA; the District is entitled to evaluate him to be sure. The District's motion to compel consent should be **GRANTED**.

Finally, once S.O. has been evaluated, S.O.'s parents still have the right to withhold consent for implementation of the recommended special education services via an Individualized Education Program (IEP). However, they do so at their own risk and at the risk of doing a disservice to S.O. S.O.'s parents may not later argue that the District violated its child-find obligation or that the District failed to provide S.O. with a FAPE. The District also may not seek to compel consent again at that time.

I agree with petitioner that an educational evaluation is not meant to assist with litigation or settlement. However, it is meant to assist the parties and trier of fact in determining FAPE for this child. **I CONCLUDE** as fact that good cause exists to warrant educational evaluation's.

### **ORDER**

Therefore, **IT IS ORDERED** that the petitioners appeal is **GRANTED** and **I ORDER** that the District's Motion to Compel Consent to conduct initial evaluations to determine whether S.O. is eligible for special education services under the Individuals with Disabilities Education Act (IDEA) in order to afford him reasonable accommodations based on his needs under Section 504 is **GRANTED**. However, again, if S.O.'s parents then refuse to implement an IEP or any special education services, they cannot later claim that the District failed in its child-find obligations or to provide S.O. with a FAPE. The District also cannot again seek to compel consent to implement the IEP if S.O.'s parents refuse to do so.

September 18, 2025

DATE

  
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**DEAN J. BUONO, ALJ**

Date Received at Agency:

September 18, 2025

Date Mailed to Parties:

September 18, 2025

DJB/oni