



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 09246-25

AGENCY DKT. NO. 2025-39070

A.K. ON BEHALF OF E.H.,

Petitioner,

v.

ENGLEWOOD CITY BOARD

OF EDUCATION,

Respondent.

A.K., petitioner, pro se

R. Scott Eveland, Esq., for respondent (Cleary, Giacobbe, Alfieri, Jacob, attorneys)

Record Closed: June 3, 2025

Decided: June 16, 2025

BEFORE **SUSANA E. GUERRERO**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

A.K., on behalf of E.H., filed an Expedited Due Process Petition seeking E.H.'s return to his "in-district placement" and the development of a Functional Behavioral Analysis (FBA).

Petitioner, A.K. on behalf of E.H., filed an Expedited Due Process Petition with the New Jersey Department of Education, Office of Special Education (OSE), under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1400 to 1482, on or around May 23, 2025. The respondent, Englewood City Board of Education (the District) filed an Answer to the Petition on June 2, 2025. The hearing was held on June 3, 2025.

FACTUAL DISCUSSION AND FINDINGS OF FACT

The underlying **FACTS** are largely undisputed.

E.H. is currently a seventeen-year-old, non-classified, student at the District's High School. He is currently at the end of his junior year and anticipates progressing to his senior year for the 2025–2026 school term. E.H. was suspended by the District in late April 2025 for his behavior and then placed on home instruction pending psychiatric clearance. He has not returned to the classroom since late April 2025. Petitioner seeks, in part, an order compelling the District to allow E.H. back into the classroom.

E.H.'s disciplinary history at the District began shortly after transferring to the District at the start of his freshman year when he was reported for insubordination and being disrespectful toward staff. Since then, E.H. has dealt with a multitude of different disciplinary issues including, but not limited to, disrupting and cutting class, leaving school without permission, using profane language toward faculty, jeopardizing the safety of others or the order of the school, and improper use of electronics.

To date, E.H.'s high school disciplinary record includes 129 conduct referrals, about forty-one of which were issued in the 2024–2025 school term. During the 2024–2025 school year, he was written up and suspended on multiple occasions for being disrespectful to staff, having verbal altercation with a teacher, defiance, verbal abuse or use of profanity at teachers. He has repeatedly been cited for profane language toward faculty, including but not limited to telling them: “Suck my d***,” “You’re such a dumb***,” “Why you on my d***?” To address E.H.'s behaviors, the District held a meeting with the petitioner in late September 2024, and the District then held an I&RS

meeting in October 2024 and put together a plan with behavioral interventions and goals.

Vice Principal Matthew Lawrence, who is very familiar with E.H. and his behavioral history, testified credibly that as the 2024–2025 school year progressed, E.H. became more and more aggressive and threatening. He was not only disrespectful and defiant to staff, but threatened people at the high school and caused staff to become uncomfortable. The District attempted to collaborate with A.K. and E.H., and to address these behaviors by, for example, offering counseling and other behavioral supports, including participation in the school's Zone program, which provides mental health counseling and prevention services. E.H. was generally unreceptive to these supports, and VP Lawrence testified credibly that the I&RS plan turned out to be ineffective as the student disregarded it and continued to be disruptive in class, disrespect teachers and staff, take long and unapproved breaks, and remain off-task.

A referral for evaluation for Special Education and related services was made on February 19, 2025. An initial identification meeting was scheduled for March 11, 2025. A.K. participated in that meeting and provided consent for the following evaluations the following day: a psychological evaluation; an educational evaluation; a social history; an FBA; and a psychiatric evaluation. While the District attempted to complete these evaluations to then hold an eligibility meeting and IEP meeting, E.H. was uncooperative and prevented the District from completing the evaluations that the District and A.K. had agreed to.

Ultimately, the District was only able to complete the social history assessment and the FBA. Dennis Sullivan, MSW, and E.H.'s case manager, conducted the social history assessment and prepared a report dated April 23, 2025. A.K. was the main source of information for this evaluation and E.H. refused to even be interviewed. The FBA was conducted on April 7, 2025, and a report was prepared and shared with the parties. A school psychologist who is also a member of the child study team, scheduled a psychological evaluation for March 21, 2025 but E.H. refused to be evaluated. She attempted to observe E.H. during class but E.H. cursed at her and protested her presence.

When E.H.'s resistance was brought to A.K.'s attention, she requested another school psychologist. The District accommodated her request. Another school psychologist attempted to reschedule the assessment but A.K. then asked that evaluations be conducted after the April spring break. E.H. did not make himself available for evaluations in March or April 2025 despite the District's attempts to reschedule.

When A.K. provided the District with a medical record dated March 26, 2025 from one of E.H.'s private providers indicating that he has "adjustment disorder with mixed disturbance of emotions and conduct," the District held a 504 Eligibility Determination meeting on April 7, 2025 and developed a 504 Plan that contained a number of accommodations and supports pending the completion of evaluations and consultation with the Child Study Team. A.K., however, did not consent or reply to the proposed 504 Plan, and it never took effect.

At around 3:00 p.m. on April 21, 2025, E.H. was scheduled to attend a credit recovery class at the high school. E.H. arrived riding an electric scooter into the high school, which is not permitted. Security told E.H. to leave the premises with his scooter. He left with the scooter but returned shortly thereafter, again riding his scooter through the school. VP Lawrence testified credibly that security told him again to leave the building, and that E.H. responded by cursing at the security guard, and spitting at and kicking the front door of the school.

E.H. was suspended for the events on April 21, 2025. Despite the suspension, E.H. returned to the high school in the following morning. When he walked in, VP Lawrence overheard E.H. yell at security, "Get your boy!," demanding to see the security guard who told him to leave the building the day before. VP Lawrence approached E.H. and reminded him that he had been suspended for the incident the day before. VP Lawrence testified credibly that E.H. admitted to him that he had ridden the scooter in the school, that he had kicked and spit at the door, and that he had cursed at the security guard. When E.H. saw the security guard, he again yelled and cursed at him while VP Lawrence tried to calm him down. E.H. threatened the security

guard, threatening to “F*** him up” and “Kick his a**.” VP Lawrence attempted to diffuse the situation and talk with E.H. but E.H. continued his aggressive and threatening behavior. E.H. then took a swing at the security guard. He did not succeed in making contact with the security guard because VP Lawrence placed himself between the two. E.H. also kept pushing up against VP Lawrence as he tried to calm E.H. down.

E.H. then left the building, and VP Lawrence followed him out, attempting to talk to him and calm him down. E.H. threatened VP Lawrence, threatening to take a swing at him also, and to spit on him, while displaying a wad of mucus/spit in his mouth. E.H. circled VP Lawrence very closely with his electric scooter while threatening to spit on him, and continuing to curse at him. E.H. also picked up a rock, at least the size of a golf ball, and threw it in VP Lawrence’s general direction, hitting the school. The rock bounced off the school and towards VP Lawrence, but did not hit him. E.H. kept cursing as he finally left the school. The police were called but they arrived after E.H. had already left the scene. A.K. met with the District following this incident and was informed of what had occurred. I **FIND** that E.H. exhibited aggressive, threatening and violent behavior on April 21 and April 22 when he not only cursed at and verbally and physically threatened the security guard and VP Lawrence, but by swinging at the security guard with intent to hit him; pushing up against VP Lawrence; riding his scooter close to VP Lawrence while threatening to spit at him and hurt him; and by throwing a rock in anger in the vicinity of the VP and hitting the school.

Following the incident of April 22, 2025, the District extended E.H.’s suspension for an additional five days and then placed him on home instruction pending the results of the previously agreed-upon evaluations. A.K. was informed. The parties subsequently agreed that the psychiatric evaluation that petitioner had consented to in March 2025, would be conducted by Ashley Crumby, MD. The parties also agreed that Dr. Crumby’s opinion should address whether E.H. is a danger to himself or others, and whether E.H. is substantially likely to harm himself or others if not removed from his school setting. The parties agreed to rely on Dr. Crumby’s opinion in deciding whether he should be permitted to return to school or whether he should remain on home instruction. Former Counsel for the petitioner confirmed in writing that: “The Parties

agree that the issue of E.H.'s return to school [pending the IEP] will be determined by the opinion of the psychiatrist."

E.H. was scheduled to meet with Dr. Crumby on May 13, 2025 but E.H. refused to get out of the car to see her. The evaluation was rescheduled to May 23, 2025. A.K. accompanied E.H. to the evaluation, however, E.H. refused to speak with the psychiatrist. Dr. Crumby prepared a report dated June 2, 2025 in which she makes a diagnosis and provides recommendations, including recommendations concerning E.H.'s placement even though E.H. did not speak to her. Notably, Dr. Crumby wrote: "I am not able to recommend at this time if he [E.H.] is safe towards himself or others because he did not communicate verbally or through other modes of communication during our appointments."

A.K. suggested that E.H. should be allowed back into the classroom because Dr. Crumby did not recommend a therapeutic placement, only additional accommodations within his school environment. I **FIND**, however, that E.H. has not been appropriately cleared by any psychiatrist or other professional to return to the in-district program. Even though the petitioner obtained a "school clearance letter" dated May 22, 2025 that appears to have been signed by a private physician, I accorded this letter no weight for several reasons: that physician did not testify; the bases for his opinions are unknown; the physician's qualifications are unknown; petitioner provided no testimony or information concerning this report/recommendation; and its use and consideration is contrary to the parties' agreement to rely on Dr. Crumby's opinion.

Given Dr. Crumby's inability to determine whether E.H. is safe towards himself or others; the absence of any other reliable medical clearance or records indicating that E.H. is not a danger to himself or others and should return to school; and my consideration of the video surveillance and testimony, I **CANNOT FIND** that E.H. is safe towards himself and others to return to his in-school setting.

The last day of school is June 18, 2025. While A.K. testified that she was less concerned about E.H. returning to school for the remainder of this school year, and more concerned about the District's perceived intention to place E.H. in an out-of-

District therapeutic setting, E.H.'s eligibility for special education and related services and the appropriateness of any out-of-District program or placement are beyond the scope of this Petition. Mr. Dennis Sullivan testified credibly that the eligibility meeting has not taken place due to the lack of testing and data since E.H. has refused to cooperate to complete the psychological and educational evaluations. While the District witnesses testified that E.H. would benefit from a special education program, the District has yet to hold an eligibility meeting and an IEP meeting to propose supports or any potential change in placement.

LEGAL ANALYSIS AND CONCLUSIONS

E.H. is a non-disabled student, and petitioner has not asserted here that the District has failed to classify E.H. in a timely manner, nor that E.H. was denied a FAPE. A non-disabled student who assaults a Board of Education employee may be removed from school pursuant to N.J.A.C. 6A:16-5.7. As an assault can include an "attempt to cause bodily injury to another," pursuant to N.J.S.A. 2C:12-1(a), I **CONCLUDE** that the District here acted appropriately, and within its right, to remove E.H. from the school setting given the events of June 22, 2025, and particularly when he swung at the security guard, attempting to cause bodily injury. I also **CONCLUDE** that the District appropriately placed E.H. on home instruction given: his escalating behaviors, and particularly his dangerous and threatening behavior on April 22; the fact that the District was in the process of evaluating E.H. for special education and related services; and the District's plan to hold an IEP meeting, once evaluations were completed, to address behavioral supports and placement.

Moreover, the parties mutually agreed that psychiatrist Dr. Crumby would evaluate E.H. and determine whether he is a danger to himself or others, and whether he is substantially likely to harm himself or others if not removed from his school setting. Unfortunately, she was unable to determine whether it was safe for E.H. to return to school because E.H. refused to speak with her. Absent Dr. Crumby's expert opinion that E.H. should be permitted to return to school, and because she could not conclude that E.H. is not a danger to himself or others, I cannot find that it is safe for E.H. and others if he were to return to school at this time. Based on Dr. Crumby's report and my

consideration of the facts presented before me, including my observation of the surveillance video footage of April 21 and April 22, I **CONCLUDE** that E.H. should remain on home instruction pending an IEP meeting, or unless and until Dr. Crumby, or another mutually agreed-upon professional, opines that E.H. is not a danger to himself or others and that he is not substantially likely to harm himself or others if returned to the in-classroom setting. I find no reason to disturb the parties' agreement to rely on Dr. Crumby's report in determining whether E.H. should return to the classroom or remain on home instruction, and, as currently written, Dr. Crumby's report does not clear E.H. to return to the classroom setting.

E.H. should be given another opportunity to meet with Dr. Crumby so that she may re-assess him and, if possible, provide an updated recommendation addressing whether E.H. is a danger to himself or others and whether he is substantially likely to harm himself or others if not removed from his school setting. As the parties had agreed, this opinion should determine whether he returns to school pending the IEP. If, for whatever reason, Dr. Crumby is unable to re-assess E.H. and provide an updated opinion or recommendation, the parties should use another agreed-upon psychiatrist to assess whether it is dangerous for E.H. to return to the classroom.

Finally, I **CONCLUDE** that the petitioner's demand for an FBA is moot as it has already been completed by the District. The petitioner should endeavor to cooperate with the District and complete the remaining agreed-upon evaluations to ensure an effective and comprehensive IEP meeting.

ORDER

It is **ORDERED** that E.H. be given another opportunity to meet with Dr. Crumby, and that Dr. Crumby be given an opportunity to update her opinions and recommendations concerning E.H.'s return to school after speaking with him. If Dr. Crumby is unavailable or unable to meet with E.H. and update her report, for whatever reasons, the parties are **ORDERED** to have E.H. assessed by another agreed-upon psychiatrist who can address whether E.H. is a danger to himself or others, and whether E.H. is substantially likely to harm himself or others if returned to the school setting. In

the meantime, it is **ORDERED** that the District continue to offer E.H. home instruction, and that E.H. remain on home instruction pending an IEP meeting or until he is cleared to return to the classroom by an agreed-upon psychiatrist. The Petition is hereby **DISMISSED**.

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 16, 2025
DATE



SUSANA E. GUERRERO, ALJ

Date Received at Agency _____

Date Mailed to Parties: _____

jb

APPENDIX

Witnesses

For Petitioner:

A.K.

For Respondent:

Matthew Lawrence

Dennis Sullivan

Exhibits

For Petitioner:

- P-1 Letter to A.K. from the District dated January 23, 2025
- P-2 Letter to A.K. from the District dated March 3, 2025
- P-3 Student Action Plan dated March 10, 2025
- P-4 Emails between A.K. and District
- P-5 Police Report

For Respondent:

- R-1 Student Conduct Log (October 6, 2022 to January 23, 2025)
- R-2 E.H. April 22, 2025 Incident – Video Recordings (Rock Throwing Incident)
- R-3 E.H. Draft IEP
- R-4 Not in Evidence
- R-5 Psychiatric Evaluation of E.H. by Dr. Ashley K. Crumby
- R-6 E.H. Functional Behavior Assessment
- R-7 E.H. Summarized Disciplinary History
- R-8 E.H. Social History
- R-9 E.H. Draft 504 Plan
- R-10 Not in Evidence
- R-11 Not in Evidence

- R-12 Not in Evidence
- R-13 E.H. I&RS Plan
- R-14 Not in Evidence
- R-15 E.H. Consent for Evaluations
- R-16 E.H. Out of School Suspension on April 24, 2025
- R-17 E.H. E-Mails Related to Psychiatric Determination
- R-18 Not in Evidence
- R-19 Not in Evidence
- R-20 Not in Evidence
- R-21 A.K. Additional Documentation
- R-22 E.H. April 21, 2025 Incident – Video Recordings (Scooter Incident)