



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 08511-25

AGENCY DKT. NO. 2025-39095

V.C. AND J.S. ON BEHALF OF A.S.,

Petitioners,

v.

WAYNE TOWNSHIP

BOARD OF EDUCATION,

Respondent.

Jessica Witkowski, Esq., for petitioners (Witkowski Law Firm, attorneys)

Margaret A. Miller, Esq., for respondent (Weiner Law Group, attorneys)

Record Closed: October 14, 2025

Decided: October 30, 2025

BEFORE **JOSEPH A. ASCIONE**, ALJ (Ret., on recall):

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioners V.C. and J.S. on behalf of their son A.S., age seven, requested a due-process hearing seeking a return to in-district general education placement of A.S. at the Randall Carter Elementary School, Wayne, New Jersey. Petitioners also seek a one on one aide to address A.S.'s behaviors, which detract from his ability to take full advantage of the educational programs. Petitioners claim the continued placement at Chapel Hill

Academy, Lincoln Park, New Jersey (Chapel Hill) has and continues to fail to provide A.S. with a free appropriate public education (“FAPE”) with the least restrictive environment (LRE). A.S. was classified on February 29, 2024, as other health impaired (OHI) due to his anxieties and behavioral actions.

The classification was initiated by a request from the parents on February 12, 2024. The petitioners dispute the classification as OHI, and contend that a more appropriate classification would be emotional regulation impairment (ERI). Petitioners’ counsel acknowledged that the classification is not significant in the services to be provided. The petitioners also contend that procedural deficiencies have deprived A.S. of FAPE prior to February 29, 2024. Specifically, the failure to seek a determination regarding eligibility for special education prior to the parents’ request (Child Find).

The respondent, Wayne Township Board of Education (Wayne), disputes petitioners’ claims, contends that Chapel Hill Academy (Chapel Hill) is the appropriate placement, and denies it is capable of providing FAPE, at this time, within the district because of A.S.’s continued behavioral actions, which will present a danger to himself and others.

The New Jersey Department of Education, Office of Special Education Programs, transferred the matter to the Office of Administrative Law (“OAL”) as a contested case on August 4, 2025. The matter was heard on October 6, and 7, 2025. The record closed on October 14, 2025, after receipt of the closing arguments of both sides.

FACTUAL DISCUSSION

A.S. is the oldest of three children of J.S. and V.C. A.S. started at Primrose School at age 2, was disrupted by school closings due to Covid-19. He returned to Primrose in July of 2020. He appeared to be performing satisfactorily. In the fall of 2021, due to behavioral issues, the parents had a child psychologist evaluate A.S. at Primrose. The recommendation was that Primrose was not appropriate. Primrose requested that A.S. withdraw. In the fall of 2021, he then transitioned from home to three morning half days at age three at the Wayne school. The parents requested an

initial child study team consultation with the respondent on October 4, 2021, claiming behavior and emotional difficulties. A meeting convened on October 21, 2021, at that time, it was determined that a child study team evaluation was not needed, as A.S. was performing at grade level, despite his behavioral issues.

Rickie Dooley (Dooley)

Ms. Dooley worked for the Wayne Department of Education for twenty-one years. She served as A.S.'s case manager and school social worker. As a case manager she is generally responsible for forty-two students. She possesses a Bachelor of Arts from Rutgers University, and a Master of Arts in Social Work, from George Washington University. She also represented herself as certified as a Licensed Certified Social Worker (LCSW) and a Board Certified Behavioral Analyst (BCBA).

Ms. Dooley first remembers working with A.S. in November 2023, while he was attending kindergarten. A.S. was not classified at that time as in need of special education. Her interaction resulted from A.S.'s behavioral issues. At that time the teachers were attempting to deal with A.S.'s behavioral issues which included sucking on his fingers, biting his knuckles, fidgeting with his ear, work refusal, poking other students with pencils, throwing lunch boxes at other students, pushing desks, and otherwise taking physical actions against students and staff. (See J-1 at page 2-2). The teachers attempted various strategies to deal with A.S. Educationally, A.S. was performing at grade level, but there were incidents of work refusal.

A.S.'s behaviors existed but did not appear to present problems until early 2024.

On February 13, 2024, J.S. and V.C., requested an evaluation for special education which was performed on February 29, 2024. (See J-1). At that meeting four evaluations were authorized, Psychological, Educational, Psychiatric and Social. All were performed in March and early April 2024.

On February 29, 2024, A.S. had a behavioral issue, resulted in the evacuation of the entire class. From on or about February 29, 2024, A.S. was home schooled.

Accordingly, while a Behavioral Evaluation was agreed to by the parties, the anticipated placement at home made such an evaluation inappropriate.

A.S.'s psychological assessment performed in March 2024, reflected an Intelligence Quotient of one hundred twenty but a processing speed of eighty-nine (See J-2). There were additional discrepancies in Basic Reading Skills, Reading Fluency, Reading Comprehension, and Written Expression. These discrepancies reflected potential difficulties for A.S.

On March 20, 2024, Ms. Dooley prepared a social assessment report on A.S. as part of the classification (See J-3). The report identified anxieties resulting from A.S. learning of his mother's pregnancy toward the end of 2023. A.S.'s brother had been diagnosed with autism and required parental attention. The parties reconvened on May 1, 2024, and classified A.S. as in need of special education based upon OHI (See J-6). On May 7, 2024, an IEP meeting was held and placed A.S. in the LLD Classroom, where A.S. would have a smaller class size and the teacher would have multiple aides available (See J-7).

The Wayne general education class size was approximately eighteen students while the LLD class size was approximately twelve students. A.S. instructions were modified to challenge his abilities.

A behavioral intervention plan, not identified as such, was identified in J-7 at pages 7-1, 7-2, and 7-3. This was designed to address strategies to deal with A.S.'s behavioral actions and improve educational outcomes.

On June 7, 2024, the child study team reconvened an IEP meeting which resulted in the continuation of the LLD placement through the end of the school year on June 19, 2024, an ESY LLD placement for July 2024, and a proposed out of district placement for September 2024. (See J-8). In that IEP, the Wayne Behavioral Analyst, Aylleen Acevedo, MAT, BCBA, prepared a formal behavioral intervention plan for A.S. (See J-8 at page 5-1, 5-2, and 5-3).

Jacqueline Heyman (Heyman)

Ms. Heyman is employed by Chapel Hill as a counselor. She joined Chapel Hill in 2015. She is a Licensed Professional Counselor, a National Certified Counselor and Student Assistance counselor and an approved Clinical Supervisor, who received her Master of Science from Fairleigh Dickenson University in Clinical Mental Health Counseling, her undergraduate degree from Drew University in Psychology and Sociology. She is completing this semester at Seton Hall University in her K-12 Supervisor in Education certificate. She has an advanced certificate in addressing students with attention deficit hyperactivity disorder (ADHD-CCSP), and Crisis Intervention Institute Certified.

Ms. Heyman discussed the education institution at Chapel Hill, a K-12 educational setting, specifically, the floor where A.S. is instructed. The floor consists of three classrooms each containing from 8-12 students, one teacher, and one aide, in each classroom. There are two counselors present on the floor, which also contains Ms. Heyman's office. All teachers are special education certified and the teachers and aides all have crisis management training. Ms. Heyman roams the three classrooms during the day as well as maintaining a presence in her office to assist students with concerns.

The educational setting is designed for those students whose behaviors detract from their academic advancement. A simplified synopsis of the program provides a student with three goals individualized to the student's behavioral symptoms. Each day a student receives points depending on the teacher's assessment of the student's achieving the identified goals. The points are necessary for the student to achieve weekly progress levels. There are three levels, each providing rewards at the end of the week, the more points earned allows a student to progress to a higher level and receive more rewards. In other words, a positive reinforcement of the assigned goals sought. A.S. appears to have enthusiasm to excel and reach the higher levels, however, he is still struggling from time to time to comport his behaviors to acceptable standards. De-escalation is predominantly verbal. There were no reported physical restraints at Chapel Hill. The program is not designed to be a permanent program.

Ms. Heyman, served as A.S.'s counselor for the 2024/25 school year. A.S. started in a class of five students in September 2024, he adjusted well to the transition and rose to level two after a short period of time. Regrettably, A.S. did not consistently remain at level two, would revert to level one and would require four weeks at level one to regain level two. He never achieved level three during the 24/25 school year. His behaviors were predominately work refusal or talking during class. Toward the spring of 2025, his behaviors deteriorated. There was an incident of turning off the electronic board during a class. However, the behaviors aggravated to tripping a student during a play recess. The behaviors were inconsistent and unpredictable. The teachers could not verbally engage with A.S. to divert the behaviors and at times it was necessary to send A.S. to the counselor for a cool down period. At the counselor's office A.S. could kick the trash can to de-escalate. Ms. Heyman would not describe the behaviors as mild. Ms. Heyman testified, A.S.'s behaviors were significant and were disruptive of the classroom.

Ms. Heyman denied that A.S. was academically bored. He was provided with work to challenge his ability. Sometimes he would perform more than satisfactorily, sometimes just satisfactorily. A.S. is progressing, appears to be engaged with the reward system and tries to comply with his behavioral goals. There are times that he claims the inability to perform the work but just needs teacher intervention.

Ms. Heyman maintains that increasing the class size will be detrimental to A.S.'s educational needs, as he will have difficulty coping with the larger class size. Ms. Heyman does not take a position whether to return to the Wayne school. She maintains A.S. will benefit from continued placement at Chapel Hill. She also maintains that absent the parents' request to consider return to Wayne, she would have considered it premature to contemplate that at this time.

Laura Lutke (Lutke)

Ms. Lutke began as the case manager for A.S. in September 2024, when he started at Chapel Hill. She is an employee of Wayne school, and serves as a Certified Social Worker, having a Master of Arts in Social Work. She has worked at Wayne for fourteen years. Ms. Lutke explained when a student is out of district, she maintains

contact with the out of district school, in this case Chapel Hill, during the school year. Her contact was Ms. Heyman. Her memory recalls a rough start in September of 2024 for A.S., but then he seemed to settle in to Chapel Hill. A.S. was improving but still having bouts of behavioral problems, slightly less intense. Instead of tipping a desk over, he resorted to pushing the desk. It was not until Spring of 2025, that J.S. contacted her about the possibility of return to Wayne.

Ms. Lutke's conversations with Ms. Heyman reflected A.S.'s progress but continued behavioral problems. Ms. Heyman would see A.S. multiple times a day to resolve some of the behavioral issues. Ms. Lutke did get to observe A.S. in language arts, she believed his independent work was "O.K.," but A.S. did easily go off task and behaved silly. She understood that A.S. had not attained level three at any time during the school year.

Ms. Lutke participated in drafting the IEP (see J-10), specifically the academic background. She discussed the severe behaviors when A.S. was in the LLD placement at the end of the 2024 school year. She identified the supports that Chapel Hill provides which cannot be matched at Wayne. She stated that the child study team considered return to Wayne as not a recommendation they could consider at this time. She stated her concern that a premature return could result in behavioral issues which could not be addressed in a general education placement at Wayne. This would be detrimental to A.S.'s confidence and potential result in a replacement out of district, making it harder for A.S. to return a second time.

Ms. Lutke maintains that providing A.S. with a placement in general education with a pull-out for language arts would be a stressful transition. She could not recommend the return of A.S. to Wayne at this time, due to the inability of Wayne to provide sufficient supports similar to the supports provided at Chapel Hill.

She recognizes that the LLD classroom is inappropriate for A.S. The tribunal's impression is that this was done to accommodate the family at that time to return A.S. to Wayne during the late stages of V.C.'s pregnancy.

Taylor Kratzer (Kratzer)

Ms. Kratzer has been employed since 2019, as the second and third grade math teacher at Chapel Hill. She has a Bachelor of Arts in Psychology with a minor in Education from The State University of New York at Albany. She possesses a K-6 grade, teaching certificate, and is working on a disability certification. She served as A.S.'s home room and co-math teacher in second grade, having taken over in mid-November 2024. In April 2025, she became his sole math teacher. A.S. enjoys his math but still displays push back which makes his education harder. She attended the May 2025, IEP meeting and drafted the home room and math sections. She noted that A.S. had more issues after the Spring break, but he was not violent. Conversations and counseling interventions were successful. The Spring incidents were usually with one other student, who is not with A.S. this year. She described the push backs as not just distractions but sometimes direct refusals.

Lindsey Lawlor, Ph.D. (Dr. Lawlor)

Dr. Lawlor, obtained her Bachelor of Arts, in Psychology from Hofstra University, her Master of Arts, and Doctorate in Psychology, from St. John's University, Queens, New York. She is a Board Certified Behavioral Analyst, is licensed in New York as a Psychologist, and in New York and New Jersey as a School Psychologist. She has never been employed with a school district. She was accepted as an expert in School Psychology and Behavioral Analysis.

She had the opportunity to evaluate A.S. at Chapel Hill during a math and language arts lesson for a total of eighty-five minutes. She observed A.S. regularly completing his math assignments ahead of others in the class. She did observe his language arts and testified to A.S. being engaged but did display anxiety, avoidance and escape.

She also reviewed A.S.'s records from Wayne and Chapel Hill and recognized a lot of progress made at Chapel Hill, at the same time she claimed that A.S. was progressing slowly. She was critical of Wayne's failure to have a Full Behavioral Analysis (FBA) performed and the absence of a Behavioral Intervention Plan (BIP). She

recognized that the relationship between A.S. and the counselor, Heyman was good. She testified that generally one-on-one aides are available at school districts. That placement in the general education setting would place A.S. with students of similar educational abilities. She testified that the other students at Chapel Hill were not of similar educational abilities.

Dr. Lawlor was critical of the absence of a transition from home schooling to placement in the LLD classroom. She opined that placement in the LLD classroom was inappropriate. She was critical of the BIP presented in the May 2024 IEP (see J-8 at page 5-1). She explained that the OHI classification was too broad and dealt more with medical issues. She opined that an ERI classification was more appropriate for A.S., as it was related to his emotional state.

She acknowledged that her report was based upon her eighty-five minute observation of A.S. at Chapel Hill, discussions with the parents and review of the records. She acknowledged that she did not speak with A.S.'s teachers at Chapel Hill or Wayne, attributing same to time and resource restrictions. Dr. Lawlor, further complaining that the teachers did not offer to speak to her. She acknowledged that she did not review A.S. work samples or Wayne's facilities or limitations. She testified that A.S. "might be bored if not challenged." She acknowledged that A.S. could be unfocused and disengaged. She acknowledged that she assumed other class members were not as intellectually advanced as A.S. Her report reflects that the reward system is ineffective, yet she maintains A.S.'s behaviors appear to be managed at Chapel Hill.

J.S.

J.S. is the father of A.S., he testified the family consists of his wife, V.C., and their three children, A.S. being the oldest, a younger brother, age 6, and an infant sister. The younger brother is challenged with an autism diagnosis. J.S. reports that A.S. avoids things when he is not confident and is fidgety when anxious. The parents use a star system with A.S. at home, to address his behavioral issues. His behaviors at home have been issues with his younger brother. This past summer A.S. did appear to enjoy time at

camp and no behavioral issues were related. A.S. is seeing a therapist, and has had a neurological evaluation, which has not been presented to the tribunal or Wayne.

The parents understood that an FBA was inappropriate while A.S. was home schooled but anticipated it would be performed when he was returned to Wayne. The May 2024, IEP meeting surprised the family as they had not anticipated considering an out of district placement. This statement is questioned by the tribunal as the psychiatric report (J-5), placed them on notice that out of district placement was under consideration. They are concerned that A.S. is not being educated with similarly intellectual students. They don't understand why Wayne cannot accept A.S. in the general education setting with a one-on-one aide. J.S. acknowledges A.S. has made progress at Chapel Hill.

V.C.

V.C. is the mother of A.S., she also seeks his return to Wayne in the general education setting with a one-on-one aide. She acknowledges A.S.'s progress but makes the tribunal aware that there is a transition at Chapel Hill as his counsel and teachers are new. She is concerned about A.S.'s reaction to this transition. However, nothing was presented that would bring into question that the start of the fall semester was anything other than the normal stress of the new school year.

All witnesses were credible except where otherwise noted.

FACTUAL FINDINGS

Based upon due consideration of the testimonial and documentary evidence presented at the hearing, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I FIND the following FACTS:

1. A.S. is a seven year old student whose intellectual ability is above average, however his behaviors challenge his educational advancement.

2. A.S. attended the Primrose School in March 2020. This was interrupted by Covid-19, but he returned to Primrose in July 2020. In September 2020, he again returned to Primrose, however, his behaviors were such that the parents had A.S. seen by a psychologist who recommended removal from Primrose as being an inappropriate placement.
3. He was accepted by Wayne into half day programs in 2021, because of the behaviors a child study team evaluated A.S. in October 2021, but determined he was not eligible for New Jersey Early Intervention.
4. His behaviors were described as problems with temper and impulse control. It manifested by aggression toward his peers (See J-1 at pages 2-4 and 2-5).
5. Academically, A.S. progressed satisfactorily for his age. Wayne continued to educate A.S., the teachers dealing with his behavioral issues as they arose.
6. On February 13, 2024, at the parents' request (J-15), Wayne convened on February 29, 2024, a meeting to determine whether A.S. was eligible to be classified for special education (See J-1). An FBA was also recommended at this time.
7. On February 29, 2024, A.S. had an incident which resulted in the evacuation of the entire class for safety reasons. On March 4, 2024, A.S. was placed at home school.
8. As a result of the home school placement, it was determined by the parties that an FBA would be inappropriate at that time.
9. At the February 29, 2024, meeting the following evaluations were recommended to be performed: educational, psychological, social, psychiatric, and speech and language.
10. The evaluations were performed during the months of March and April 2024.

11. The medical diagnosis, A.S. suffered from “unspecified anxiety disorder, and disruptive mood dysregulation disorder.” The report also recommended ruling out attention deficit hyperactivity disorder and autism spectrum disorder. This report also recommended placement in a small structured behavioral modification based setting or an out of district placement in a behavioral disability facility (See J-5).
12. On May 1, 2024, a child study team meeting was convened. It classified A.S. as OHI. It also determined an LLD placement for the period from May 7, 2024 to June 19, 2024 (See J-7).
13. On June 7, 2024, a child study team meeting was convened. It provided for Extended School Year (ESY) for July, and placement out of district for September (See J-8).
14. In September 2024, A.S. started at Chapel Hill. He continues to have behavioral issues, however, Chapel Hill is working with a positive reinforcement system to comport A.S.’s behaviors to reduce its impact on his educational progression.
15. On September 27, 2024, a child study team meeting was convened for A.S.’s placement at Chapel Hill. It contains a Student Behavioral Management Plan (See J-9, at page 7).
16. A.S. did progress educationally to his potential during the school year 2024/2025.
17. On May 9, 2025, a child study team meeting was convened for A.S. It recommended A.S.’s continued placement at Chapel Hill (See J-10).
18. Wayne had knowledge of and considered A.S.’s behavioral activities in October 2021. They determined that A.S. was not eligible for New Jersey Early Intervention at that time.
19. A.S. behavioral actions prior to November 2023, were addressed by the teachers appropriately.

20. Sometime after October 2023, A.S.'s behavioral activities escalated.
21. In February 2024, conducting the initial evaluation of A.S. for special education satisfies the requirements of Child Find (34 CFR 300.111).
22. There is indication that A.S. is educationally progressing appropriately for his age and ability.
23. There is no indication that A.S. is regressing from his placement at Chapel Hill.
24. There is indication that A.S.'s behaviors are improving as a result of the strategies at Chapel Hill.
25. There is indication that Wayne denies the ability to provide the full complement of services which A.S. is presently receiving at Chapel Hill.
26. There is no evidence that A.S. is being educated with other students of lesser abilities.
27. There is indication that personnel at Chapel Hill maintain, A.S. will benefit from continued attendance at Chapel Hill for the 2025/2026 school year.
28. There is indication that the transfer back to Wayne general education placement with a one-on-one aide will be insufficient to provide A.S. with a safe educational environment.
29. There is indication that the transfer back to the Wayne general education placement in a larger class size will be a stressful transition for A.S. and will negatively impact his educational advancement.

LEGAL DISCUSSION

The Individuals with Disabilities Education Act (IDEA) provides federal funds to assist participating states in educating disabled children. Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley, 458 U.S. 176, 179 (1982). One of purposes of the IDEA is “to 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(d)(1)(A). To qualify for this financial assistance, New Jersey must effectuate procedures that ensure that all children with disabilities residing in the state have available to them a FAPE through a uniquely tailored individualized education program (IEP) in the least restrictive environment. 20 U.S.C. §§ 1401(9)(D), 1412(a)(1); Honig v. Doe, 484 U.S. 305, 338 (1988). The responsibility to provide a FAPE rests with the local public-school district, which bears the burden of proving that a FAPE has been offered. 20 U.S.C. § 1401(9); N.J.A.C. 6A:14-1.1(d); N.J.S.A. 18A:46-1.1; see also G.S. v. Cranbury Twp. Bd. of Educ., 2011 U.S. Dist. LEXIS 44933, *6 (D.N.J. 2011) (New Jersey uniquely places the burden of proof and production on the school district).

In Endrew F. v. Douglas County School District RE-1, 137 S. Ct. 988, 1001 (2017), the United States Supreme Court construed the FAPE mandate to require school districts to provide “an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” The Court’s holding in Endrew F. largely mirrored the Third Circuit’s long-established FAPE standard, which requires that school districts provide an educational program that is “reasonably calculated to enable the child to receive meaningful educational benefits in light of the student’s intellectual potential and individual abilities.” Dunn v. Downingtown Area Sch. Dist. (In re K.D.), 904 F.3d 248, 254 (3rd Cir. 2018) (quoting Ridley Sch. Dist. v. M.R., 680 F.3d 260, 269 (3rd Cir. 2012)). In addressing the quantum of educational benefit, the Third Circuit has made clear that more than a “trivial” or “de minimis” educational benefit is required, and the appropriate standard is whether the IEP provides for “significant learning” and confers “meaningful benefit” to the child. Endrew F., 137 S. Ct. at 1000–01; T.R. v. Kingwood Twp. Bd. of Educ., 205 F.3d 572, 577 (3d Cir. 2000); Ridgewood Bd. of Educ. v. N.E. ex rel. M.E., 172 F.3d 238, 247 (3d Cir. 1999), superseded by statute on other

grounds as recognized by P.P. v. W. Chester Area Sch. Dist., 585 F.3d 727 (3d Cir. 2009); Polk v. Cent. Susquehanna Intermediate Unit 16, 853 F.2d 171, 180, 182–84 (3d Cir. 1988). Hence, an appropriate educational program will likely “produce progress, not regression or trivial educational advancement.” Dunn, 904 F.3d at 254 (quoting Ridley, 680 F.3d at 269).

The FAPE requirement is not “a bad faith or egregious circumstances standard,” Ridgewood, 172 F.3d at 249, and, therefore, is not “abridged because the [school] district’s behavior did not rise to the level of slothfulness or bad faith.” Ibid. (quoting M.C. ex rel. J.C. v. Cent. Reg’l Sch. Dist., 81 F.3d 389, 397 (3d Cir. 1996)). Nor is the child’s entitlement to special education dependent on the parents’ vigilance; rather, it is the school district’s responsibility “to ascertain the child’s educational needs, respond to deficiencies, and place him or her accordingly.” M.C., 81 F.3d at 397.

However, “although the IEP must provide the student with a ‘basic floor of opportunity,’ it does not have to provide ‘the optimal level of services,’ or incorporate every program requested by the child’s parents.” Ridley, 680 F.3d at 269. Hence, while the state must provide an education that offers significant learning, it need not “maximize the potential of every handicapped child.” Ibid. A court reviewing an IEP must determine whether it is “*reasonable*, not whether the court regards it as ideal.” Endrew F., 137 S. Ct. at 999. “A program need not and cannot guarantee a student’s academic progress.” S.C. v. Oxford Area Sch. Dist., 2018 U.S. App. LEXIS 31086, *6 (3d Cir. 2018) (citing Endrew F., 137 S. Ct. at 999). Hence, the IEP must be “judged prospectively so that any lack of progress under a particular IEP . . . does not render that IEP inappropriate.” Carlisle Area Sch. v. Scott P., 62 F.3d 520, 530 (3d Cir. 1995).

The IDEA’s FAPE requirement also includes a mainstreaming component, requiring education in the least restrictive environment. S.H. v. State-Operated Sch. Dist., 336 F.3d 260, 265 (3d Cir. 2003); 20 U.S.C. § 1412(a)(5)(A). “The least restrictive environment is the one that, to the greatest extent possible, satisfactorily educates disabled children together with children who are not disabled, in the same school the disabled child would attend if the child were not disabled.” S.H., 336 F.3d at 265 (quoting Carlisle, 62 F.3d at 535).

Petitioners have raised seven procedural violations of FAPE, the failure to obtain a neuropsychological evaluation, the failure of the presence of the home room and school psychologist presence at the May 7, IEP meeting, and absence of a transition plan to the LLD placement, the failure of the May 28, 2024, restraint notice until June 7, 2024, the failure of the transition plan at the June 7, 2024, IEP meeting, the absence of the school psychologist or BCBA at the Sept 2024, IEP meeting, the absence of the general education teacher, and predetermination at the May 9, 2025, IEP meeting, and the continued misclassification as OHI as opposed to ERI.

Specifically responding to same. The parents have a neuropsychological evaluation which they have yet to share with Wayne. The tribunal recognizes there may have been procedural violations, however, the procedural violations of themselves do not result in a conclusion that FAPE has not been provided. They must be combined with an absence of academic progress. This tribunal does not accept that there is any absence of academy progress, rather it found that there was continued appropriate academic progress as a result of the appropriate placement of A.S. at Chapel Hill.

The tribunal recognizes the parents' concerns for A.S. to be educationally challenged. Here though, A.S.'s behavioral problems are not insignificant. On May 1, 2025, Ms. Heyman reported an incident during recess, A.S., "pushed another student to the ground, kicked him, and hit him." The injured boy had thought they were playing tag, but A.S. was playing, "to get him." A.S., "displayed little affect and no remorse." See J-39. This is not a mild behavioral action, and A.S.'s lack of remorse is disturbing. Additional time is needed at a school which can provide more intensive behavioral corrections to comport his actions to prevent harm to himself and others.

Dr. Lawlor's opinion is viewed as a net opinion. Her limited time evaluating A.S., her failure to discuss A.S. with teachers at either Chapel Hill or Wayne, her assumption that other class members were not as intellectually capable as A.S., were all deficiencies in her report. This tribunal could not accept her testimony as anything other than a generalization of behavioral experiences. She was critical of the Behavioral Management Plan but did not identify where the plan lacked merit.

Wayne evaluated A.S. in October 2021 while in pre-school and did not distinguish his behaviors as outside the realm of males of that age. Wayne intended to address those behaviors with teacher's abilities to address behaviors previously experienced. It was not until late in 2023, that A.S.'s behaviors escalated to require further evaluation. The time between late 2023 and February 2024, is insufficient to say Wayne acted improperly. The failure to obtain an FBA, also is not deemed to be a failure to provide FAPE, as the home placement made an FBA invaluable. There was some indication that the return to the LLD class, rather than leaving A.S. home schooled till the end of the school year, was an accommodation to the parents, whose mother was pregnant.

Chapel Hill has improved A.S.'s behaviors and provided educational progress. The staff acknowledges that A.S. is erratic in his behaviors, some days are good but others are not. Unfortunately, the bad days are not mild disruptions, but more severe. A.S. is receiving counseling, discussion did not go into the nature of the counseling. This counseling is necessary and A.S. behaviors still need addressing. They are better addressed at Chapel Hill than the return to Wayne. Wayne coverage of the financial costs of tuition and transportation is an indication it is their judgment that the education of A.S. requires this continued expenditure. This tribunal will not disturb that conclusion.

Is A.S.'s IEP, developed by respondent, reasonably calculated to provide A.S. with a FAPE in the least restrictive environment?

I **CONCLUDE** A.S.'s education at Chapel Hill will provide a meaningful educational benefit to A.S.

I **CONCLUDE** that A.S.'s 2025–26 IEP offered by the respondent is reasonably calculated to provide A.S. with a FAPE in the Least Restrictive Environment.

Education, however, is not an exact science, and unfortunately, parents' desired placement cannot always be accommodated. The existing placement is reasonably calculated to enable him to make meaningful progress in light of his circumstances.

Petitioners appropriately utilized their due-process rights to challenge what they believed to be an inappropriate IEP. Regretfully, no behavioral evaluation has been completed for A.S., by a certified BCBA. The tribunal is uncertain whether such an evaluation would provide Chapel Hill with additional strategies to assist in the education of A.S. It is recommended that toward the end of the Spring 2026 semester that such an evaluation be conducted, the tribunal believes this will assist respondent to determine whether the return to an in district placement with assists can provide A.S. with FAPE in a setting that is less restrictive than the Chapel Hill placement

ORDER

Based on the above conclusions respondent's 2025-26 IEP provides a free appropriate public education and petitioners' petition is **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 (2025). 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 30, 2025
DATE


JOSEPH A. ASCIONE, ALJ (Ret., on recall)

Date Received at Agency:

October 30, 2025

Date Mailed to Parties:
cc

October 30, 2025

APPENDIX

Witnesses

For Petitioners:

Lindsey Lawlor - Behavioral Expert

Taylor Kratzer – Home Room and Math Teacher Chapel Hill

J.S. - Father of A.S.

V.C. - Mother of A.S.

For Respondent:

Rickie Dooley - Case Manager Wayne

Jacqueline Heyman - Chapel Hill Counselor

Laura Lutke - Social Worker Wayne

EXHIBITS

Joint:

- J-1 Evaluation Plan – Initial, dated 2/29/24
- J-2 A.S. Psychological Assessment, dated 3/18/24
- J-3 A.S. Social Assessment, dated 3/20/24
- J-4 A.S. Educational Assessment, dated 3/28/24
- J-5 A.S. Psychiatric Assessment, dated 4/2/24
- J-6 Eligibility Conference Report – Initial, dated 5/1/24
- J-7 Individualized Education Program – Initial, dated 5/7/24
- J-8 Individualized Education Program – Annual Review, dated 6/7/24
- J-9 Individualized Education Program – Annual Review, dated 9/30/24
- J-10 Individualized Education Program – Annual Review, dated 5/9/25
- J-11 Chapel Hill Academy Report Card 2024-2025 School Year
- J-12 Student Detail Report, Kindergarten Entry Assessment 2023-2024 School

Year

- J-13 Chapel Hill Academy Daily Log Book 2024-2025 School Year
- J-14 Chapel Hill Academy Daily Log Book 2025-2026 School Year
- J-15 Letter from V.C. to Wayne Township Public Schools Child Study Team, dated 2/12/24
- J-16 Email from Pamela Bernstein to R.S. and V.C. Subject "referall to the Child Study Team", dated 2/14/24
- J-17 Email from V.C. to Rickie Dooley Subject A.S. "behavior consult", dated 5/20/24
- J-18 Wayne Township Public Schools Physical Intervention Incident Form, dated 5/28/24
- J-19 Email Rickie Dooley to V.C. and R.S., Subject: "AS – Important Meeting Info - Please Respond – Friday, June 7th, 2024 at 2:40 pm.", dated 5/31/24
- J-20 Letter Chapel Hill Academy To R.S. and V.C., dated 9/27/24
- J-21 Letter Chapel Hill Academy To R.S. and V.C., dated 10/18/24
- J-22 Letter Chapel Hill Academy to V.C. and R.S., dated 9/12/24
- J-23 Letter Chapel Hill Academy To R.S. and V.C., dated 1/3/25
- J-24 Letter Chapel Hill Academy To R.S. and V.C., dated 2/13/25
- J-25 Letter from Wayne Township Public School to V.C. and R.S. signed by Parent, dated 4/4/25
- J-26 CHA's B.A.S.E. Program N/A
- J-27 Letter Chapel Hill Academy to R.S. and V.C., dated 9/19/25
- J-28 Email from V.C. to Kimberly Thompson and Response from Kimberly Thompson to V.C. re: A.S., dated 9/27/24
- J-29 Email from V.C. to Laura Lutke re: A.S., dated 10/4/24
- J-30 Email from Laura Lutke to V.C.re: PTO Activities, dated 4/4/25
- J-31 Email from Rickie Dooley to V.C. re: AS - Release of Info and Requested Referral Information, dated 2/26/24
- J-32 Learning Language Disabilities Program - Wayne Township Public Schools - Student Support Services - LLD Program N/A
- J-33 Email from Maggie Kondovski, dated 9/17/25
- J-34 Email from Jacqueline Heyman, dated 5/29/25
- J-35 Email from Jacqueline Heyman, dated 5/28/25

- J-36 Email from Jacqueline Heyman, dated 5/22/25
- J-37 Email from Maggie Kondovski, dated 5/21/25
- J-38 Email from Jacqueline Heyman, dated 5/6/25
- J-39 Email from Jacqueline Heyman, dated 5/1/25
- J-40 Email from V.C., dated 4/10/25
- J-41 Email from Maggie Kondovski, dated 9/23/24
- J-42 Email from Nicole Messina, dated 6/6/24
- J-43 Email from Nicole Messina, dated 6/5/24
- J-44 Email from Nicole Messina, dated 6/10/24
- J-45 Email from Nicole Messina, dated 6/11/24
- J-46 Email from Nicole Messina, dated 6/12/24
- J-47 Email from Nicole Messina, dated 6/13/24
- J-48 Email from Nicole Messina, dated 6/17/24
- J-49 Wayne Township Public Schools Meeting Notice for 2/29/24
- J-50 Wayne Township Public Schools IEP Meeting Notice for 4/2/24
- J-51 Wayne Township Public Schools IEP Review Meeting Notice for 6/17/24
- J-52 Wayne Township Public Schools IEP Review Meeting Reschedule Notice for 6/7/24
- J-53 Wayne Township Public Schools IEP Meeting Notice for 9/27/24
- J-54 Wayne Township Public Schools IEP Meeting Notice for 5/9/25
- J-55 Chapel Hill Academy Point Graphing 2024-2025 School Year
- J-56 Randall Carter Kindergarten Report Card 2023-2024 School Year

For Petitioners:

- P-1 Dr. Lindsey Lawlor Educational Program Evaluation and C.V., dated 9/2025
- P-2 A.S. Second Grade Homework, dated 9/2025
- P-3 Not in Evidence
- P-4 Not in Evidence
- P-5 Not in Evidence
- P-6 Email Annette Ryan to V.S., dated 9/30/25