



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 13757-23

AGENCY REF. NO. 2024-36650

**B.C. AND K.C. (originally captioned as
B.C. AND K.B. ON BEHALF OF K.C.),¹**

Petitioners,

v.

**MORRIS SCHOOL DISTRICT
BOARD OF EDUCATION,**

Respondent.

Andrew DeLaney, Esq., for petitioners

Patrick F. Carrigg, Esq., for respondent (Lenox Law Firm, LLC, attorneys)

Record Closed: May 1, 2026,

Decided: June 4, 2026

BEFORE **JULIO C. MOREJON, ALJ:**

STATEMENT OF THE CASE

Petitioners, B.C. and K.C. (“student”), filed a due process petition against respondent, Morris School District Board of Education, seeking reimbursement of tuition

¹ K.B. has been dismissed as petitioner herein, and the case caption is amended to read B.C. and K.C., petitioners, under N.J.A.C. 1:1-6.2.

and costs incurred by K.C.'s continuing unilateral placements for school years 2020–2021, 2021–2022, 2022–2023, 2023–2024, and 2024–2025.

PROCEDURAL HISTORY

On August 17, 2023, a Due Process Hearing Petition (“August 17 petition”) was prepared by Andrew DeLaney, Esq., (“Mr. DeLaney”) naming B.C and K.C. on behalf of K.C. (“student”) as petitioners. On August 31, 2023, B.C. prepared a Request for Due Process Hearing (“August 31 petition”), utilizing the three-page form provided by the Department of Education, Office of Special Education (“OSE”), naming B.C. on behalf of K.C. as petitioners.

The August 17 petition and August 23 petition were filed with the OSE on October 12, 2023. The August 23 petition was withdrawn at the time of its filing on October 12, 2023, at the request of Mr. DeLaney as counsel for B.C. on both due process petitions.

The August 17 petition contained the following requested relief:

1. An order for reimbursement of tuition and costs related to K.C.'s enrollment at Barnstable Academy during the 2020–2021 and 2021–2022 school years; an order of attorney's fees and costs; and such other relief as is just and proper.
2. An order for reimbursement of tuition and costs related to K.C.'s enrollment at The Fusion Academy during the 2022–2023 and 2023–2024 school years; an order of attorney's fees and costs; and such other relief as is just and proper.
3. An order for reimbursement of tuition and costs related to K.C.'s enrollment at the Craig High School or the Winston School Academy [sic] for the 2023–2024 and 2024–2025 school years; an order of attorney's fees and costs; and such other relief as is just and proper.

On or about November 2, 2023, respondent, Morris School District Board of Education (District), filed its Answer to the due process petition. On December 15, 2023, a Substitution of Attorney was entered with the Office of Administrative Law (OAL), naming the District's current attorneys as superseding attorneys therein.

On November 14, 2023, Sarah E. Zuba, (“Ms. Zuba”) attorney for K.B., mother of K.C. wrote to the OSE asserting that K.B. was not represented by B.C.’s attorney, Mr. DeLaney, in the August 17 petition. The November 14, 2023, letter also served as notice of motion to B.C. that K.B. would move before the OSE to intervene as petitioner in the August 17 petition under N.J.A.C. 1:1-16.1. The November 14, 2023, letter further provided that: “Once added to this proceeding, [the mother, K.B.] and [Ms. Zuba] will participate in the mediation tentatively scheduled for November 23, 2023.” The virtual mediation was held at the OSE on November 29, 2023, which was unsuccessful.

The OSE docketed the August 17 petition, as Agency Reference No. 2024-36650, and on December 11, 2023, transmitted the said petition to the OAL for a due process hearing, where the same was filed on said date.

Settlement Conferences were held December 18, 2023, and January 31, 2024.

On February 1, 2024, Ms. Zuba wrote to this tribunal stating that on January 14, 2024, K.C. became eighteen years old and of legal age, and that K.C.’s educational due process rights transferred to K.C at that time. Ms. Zuba further informed this tribunal that K.C. chose her mother, K.B., to represent her in the matter.

By letter dated February 6, 2024, counsel for the District asserted in response to Ms. Zuba that B.C. does not lack standing and could still pursue his claims for reimbursement,

On February 14, 2024, Ms. Zuba, in response to the District’s correspondence of February 6, withdrew the motion for leave to intervene and agreed that B.C. has the authority to bring claims on his own behalf for claims concerning retrospective relief and prior school years but does not have the authority to bring claims concerning appropriate programming for K.C. and graduation decisions.

Several status conferences were held in February 2024.

On March 4, 2024, following a status conference held on February 21, 2024, and upon receipt of correspondence from Ms. Zuba dated February 28, 2024, that memorialized the parties' consent to amend the August 17 petition an Amended Prehearing Order was issued, amending the August 17 petition, withdrawing K.B. as petitioner herein, reflecting that on January 14, 2024, K.C. became eighteen years old, and granted her request to amend the requested relief contained in the August 17 petition limiting B.C.'s relief for reimbursement for tuition and costs for out-of-district placement through January 13, 2024.

Accordingly, the August 17 petition was amended under N.J.A.C. 1:1-6.2, to reflect that petitioners, B.C. and K.C., seek reimbursement of tuition and costs related to K.C.'s unilateral placement during her high school years as follows² :

- a. Barnstable Academy during the 2020–2021 and 2021–2022 school years;
- b. Fusion Academy during the 2022–2023 and 2023–2024 school years, up to and including January 13, 2024, only.
(See Prehearing Order dated March 4, 2024, incorporating the February 28, 2024, letter from Ms. Zuba.)

Although the amended relief is nearly identical to the relief previously requested by petitioners, the March 4 Prehearing Order also confirms the matters discussed in the February 14, 2024, letter that to the extent B.C. seeks a determination of an appropriate program or graduation decisions for the student subsequent to her eighteenth birthday on January 14, 2024, the student has authorized her mother, K.B., to make all decisions in educational matters.

The parties informed this tribunal that B.C. and K.B. had filed a due process petition on August 30, 2019, captioned B.C. and K.C. on behalf of K.C. v. Morris School District Board of Education, docket number EDS-13866-19.³ (“Middle School Petition.”) Administrative Law Judge, Margaret M. Monaco presided in said matter, and issued a

² Reimbursement for the Craig School or the Winston School Academy during the 2023–2024 and 2024–2025 school years has been dismissed.

³ On February 9, 2024, petitioners K.C. [K.B.] and K.C. withdrew their claims, and B.C. remained as petitioner.

Final Decision on May 28, 2025, (“Judge Monaco’s Decision”) (Exhibit, OAL-1). The Middle School Petition concerned the student’s school years 2017–2018, 2018–2019, and 2019–2020.

B.C. and the District requested of this tribunal that the underlying August 17 petition not proceed to allow for the conclusion of the due process hearing before Judge Monaco concerning the Middle School Petition. The request was granted.

Judge Monaco’s Decision dismissed B.C.’s Middle School Petition and denied the relief requested therein. A status conference was held on July 28, 2025, at which time petitioner B.C. informed the undersigned that he wished to continue with the underlying petition, and the District requested leave to file a motion for summary decision.

On October 8, 2025, the District moved for summary decision herein, arguing (1) that the doctrine of collateral estoppel precludes petitioners from relitigating issues previously decided in the Middle School Petition before Judge Monaco; and (2) petitioners’ claim for reimbursement for the 2020–2021 school year is time barred, as the petition was filed beyond the applicable two-year statute of limitations.

On October 15, 2025, petitioners filed their opposition to the District’s motion and contended that summary disposition is inappropriate because (1) collateral estoppel does not apply since the August 17 petition relies on different time periods, placements, alleged denials, and different remedial claims, as claimed in the Middle School Petition; (2) material facts are in dispute about whether the parents’ August 2019 outreach and ensuing communications were requests for evaluation/services; and (3) the time limitations do not warrant dismissal because each school year presents discrete accruals.

The record remained open until May 1, 2026, to allow for a thorough review of the record herein, including the review of the record in the matter before Judge Monaco.

ISSUE

Has the District's motion for summary decision established that there is no genuine issue as to any material fact challenged and that they are entitled to prevail as a matter of law?

Has petitioners' opposition set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary hearing?

The District has presented facts and legal argument that establish that collateral estoppel applies to the August 17 petition, as the issues in the Middle School Petition and this matter are identical because they are based upon the same set of facts and communications between the parties, and the statute of limitations is applicable to the 2020–2021 school year.

FACTUAL DISCUSSION

The following facts were established in the decision by Judge Monaco concerning the Middle School Petition, and I **FIND** them as **FACT** herein:

Middle School Years:

In February 2014, the District conducted evaluations and classified K.C. as eligible for special education services. During the 2015–2016 school year, K.C.'s fourth-grade school year, the District implemented an Individualized Education Program ("IEP") to address K.C.'s academic and social needs.

During the 2016–2017 school year, K.C.'s fifth-grade school year, the District conducted reevaluations to reassess K.C.'s educational programming and supports, pursuant to N.J.A.C. 6A:14-3.8. Based upon the reevaluations, the District determined that K.C. was not eligible for special education services. The District notified petitioners of this in a letter dated August 7, 2017, and terminated K.C.'s eligibility for special education and related services on August 17, 2017. On August 22, 2017, petitioners

notified the District of their intent to unilaterally place K.C. at the Craig School for the 2017–18 school year. K.C. attended the Craig School from sixth through eighth grade.

On August 7, 2019, petitioners sent a letter to the principal of the District's high school requesting information about available services and support, including the possibility of an appropriate program. On August 28, 2019, a meeting was held between K.C.'s mother and the District's Director of Pupil Services.

On August 30, 2019, B.C. and K.C., on behalf of K.C., filed a due process petition (Middle School Petition) seeking reimbursement of tuition and costs concerning K.C.'s unilateral placement at the Craig School during the 2017–2018, 2018–2019, and 2019–2020 school years. The hearing concluded May 15, 2025, and Judge Monaco rendered a decision therein.

Concerning the 2017–18 school year, petitioners alleged that the District improperly declassified K.C. and discontinued her IEP without completing a reevaluation or convening an IEP team meeting, thereby failing to offer K.C. a Free and Appropriate Public Education (FAPE). Petitioners sought reimbursement of tuition and costs incurred by unilaterally placing K.C. at the Craig School. Judge Monaco concluded that the claim was time barred as it was filed more than two years after the District's August 7, 2017, letter, and neither exception to the statutory limitations period applied.

Regardless of timeliness, Judge Monaco found insufficient evidence to grant relief, noting that the Child Study Team lacked adequate information to determine K.C.'s continued eligibility. (OAL-1 at 78–79). Judge Monaco further concluded that the parents' eight-month delay in providing the agreed-upon assessment, coupled with their full opportunity to participate in the evaluation process, supported a procedurally proper declassification.

Concerning the 2018–19 school year, petitioners alleged that the District failed to offer K.C. an appropriate IEP or placement for the 2018–2019 school year, thereby denying K.C. FAPE and entitling petitioners to reimbursement for tuition and costs incurred by K.C.'s continuing unilateral placement at the Craig School. (OAL-1 at 81–

82). Judge Monaco concluded that the proposed IEP was appropriate and that any delays in finalizing it were attributed solely to the petitioners.

Concerning the 2019–2020 school year, Judge Monaco determined that the District’s obligations under the IDEA and corresponding state law ceased once petitioners withdrew K.C. and neither re-enrolled her nor requested an evaluation or services. Id. at 88–89. Judge Monaco based this conclusion on evidence from the record regarding communications made between the parents and the District in August of 2019, specifically a letter from the parents on August 7, 2019, and a meeting with the Director of Pupil Services on August 28, 2019. Judge Monaco determined in relevant part:

The parents also never communicated with the District about re-enrolling K.C. for the 2019–2020 school year. The parents’ August 7, 2019, letter did not request an evaluation or an IEP, and did not manifest an intention to re-enroll K.C. in the District. Rather, it simply stated that the parents were “request[ing] information about what kind of services and support [K.C.] might receive at [FMS] in 8[th] grade and whether there is the possibility of an appropriate program for her in the 2019–2020 school year.” See A.B. v. Abington Sch. Dist., 841 Fed. Appx. 392, 396 (3d Cir. 2021) (“Just as ‘general expressions of concern’ do not ‘constitute a ‘parental request for evaluation’ under the plain terms of the statute,” citing D.K. ex rel. Stephen K. and Lisa K. v. Abington Sch. Dist., 696 F.3d 233, 247 n.5 (3d Cir. 2012), “Parent’s general inquiry about programs did not trigger the District’s IDEA obligations either”).

Although a meeting occurred with the director of pupil services on August 28, 2019, that discussion merely involved a general conversation about the classes, activities and the like at FMS. During that meeting, the parent did not request an evaluation or an IEP, and did not state an intention to re-enroll K.C. in the District. And, despite the director specifically informing K.C.’s mother at the meeting and in a later e-mail of the steps needed to be taken to secure an evaluation or IEP for K.C., the parents did respond to this advice and did not request the District to evaluate K.C. or propose an IEP for the 2019–2020 school year.

[Id.] at 89.]

From 2019–2023, petitioners allege that they sent follow-up communications regarding evaluation/services for high school and that the District did not initiate an evaluation, provide assessment plan, or make an IEP offer for high school. Petitioners also allege that these communications include statements about evaluation availability being contingent on reenrollment, which petitioners contend were discouraging.

The District's Statement of Facts in Support of Motion for Summary Decision and petitioner B.C.'s Response to Respondent's Statement of Alleged Material Facts offer the following factual allegations made in the August 17 petition as **FACT** herein concerning the three claims for reimbursement of tuition and costs contained in the August 17 petition:

High School Years:

Petitioner B.C. seeks reimbursement for tuition and costs for the student's continuing unilateral placements at Barnstable Academy during the 2020–2021 and 2021–2022 school years, Fusion Academy during the 2022–2023 and 2023–2024 school years, and either the Craig School or Winston Preparatory School during the 2023–2024 school year. B.C.'s claim for reimbursement for school year extends to January 13, 2024.

K.C. was not registered, and did not attend 9th, 10th, 11th, or 12th grade in the District.

K.C. began experiencing academic and social struggles as early as kindergarten and first grade.

In 2013, when K.C. was in second grade, she was evaluated by Dr. Jill Brooks, privately retained neuropsychologist, resulting in an initial assessment of K.C.'s learning and social-emotional needs.

During the 2013–2014 school year, the District conducted its own evaluations, and K.C. was classified as eligible for special education services.

During the 2015–2016 school year, when K.C. was in the fourth grade, the District had implemented an Individualized Education Program (“IEP”) to address K.C.’s academic and social needs.

During the 2016–2017 school year, when K.C. was in the fifth grade, the District conducted re-evaluations pursuant to N.J.A.C. 6A:14-3.8, in order to reassess K.C.’s educational programming and supports.

During the 2016–2017 re-evaluation process, Dr. Brooks conducted an independent re-evaluation and issued a report regarding K.C.’s ongoing needs. This report, among other things, emphasized K.C.’s need for an out-of-district placement.

In August of 2017, the District terminated K.C.’s eligibility for special education services.

On or about August 22, 2017, the petitioners provided notice to the District of their intent to unilaterally place K.C. at the Craig School for her sixth-grade year, 2017–2018.

K.C. was unilaterally placed at the Craig School beginning in the sixth grade.

The August 17 petition does not reference any IEP drafted by the District on behalf of K.C. during her high school years or allege that any IEP from K.C.’s high school years is substantively deficient, thereby denying K.C. FAPE.

All facts and factual allegations contained in the August 17 petition concern K.C.’s education from kindergarten to the 8th grade.

LEGAL ANALYSIS AND CONCLUSIONS OF LAW

I. Standards for Summary Decision

Summary decision is the administrative counterpart to summary judgment in the judicial arena. Under the Uniform Administrative Procedure Rules, “[a] party may move

for summary decision upon all or any of the substantive issues in a contested case.” N.J.A.C. 1:1-12.5(a). Such motion “shall be served with briefs and with or without supporting affidavits,” and “[t]he decision sought 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.” N.J.A.C. 1:1-12.5(b). When the motion “is made and supported, an adverse party in order to prevail must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.” Ibid.

The New Jersey Supreme Court encouraged trial-level courts not to refrain from granting summary judgment when the proper circumstances present themselves. Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 541 (1995). While cautioning that a judge should not weigh the truth of the evidence or resolve factual disputes at this early stage of the proceedings, the Court clarified that when the evidence is so one-sided that one party must prevail as a matter of law, the trial court should not hesitate to grant summary judgment. Id. at 540. Appellate courts recognize that “[a]n evidentiary hearing is mandated only when the proposed administrative action is based on disputed adjudicatory facts.” Contini v. Bd. of Educ. of Newark, 286 N.J. Super. 106, 120 (App. Div. 1995) (quoting In re Farmers’ Mut. Fire Assurance Ass’n of N.J., 256 N.J. Super. 607, 618 (App. Div. 1992)), certif. denied, 145 N.J. 372 (1996).

For the reasons discussed below, I **CONCLUDE** that summary decision is appropriate herein because there are no genuine issues of material fact concerning the August 2019 communications, and collateral estoppel bars relitigating whether petitioners’ communications with the District demonstrated an intent to re-enroll.

II. Collateral Estoppel

The Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., (“IDEA”) requires that any party be given the ability to present a complaint “with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” 20 U.S.C. §

1415(b)(6)(A). When such a complaint is filed by the child's parents or school district, they are entitled to an impartial hearing. 20 U.S.C. § 1415(f)(1)(A). As the IDEA provides the framework for special education in New Jersey, N.J.A.C. 6A:14-2.7 sets forth that "a due process hearing may be requested [for students ages three through twenty-one years] when there is a disagreement regarding identification, evaluation, reevaluation, classification, educational placement, the provision of a free, appropriate public education, or disciplinary action." N.J.A.C. 6A:14-2.7(a). A party must file the request "within two years of the date the party knew, or should have known, about the alleged action that forms the basis for the due process petition." N.J.A.C. 6A:14-2.7(a)(1).

Although parents have the right to an impartial due process hearing on any issue pertaining to their child's placement, a parent's request is subject to the doctrine of collateral estoppel, which may bar relitigating an issue raised in the request because it was conclusively resolved through a previous action. K.S. ex rel. K.S. v. Hackensack Bd. of Educ., 2016 N.J. AGEN LEXIS 16 (Jan. 12, 2016) (citing W.R. & K.R. ex rel. H.R. v. Union Beach Borough Bd. of Educ., EDS 10392-09 (July 19, 2010)).

Collateral estoppel, also identified as issue preclusion, Pittman v. La Fontaine, 756 F. Supp. 834, 841 (D.N.J. 1991), bars relitigating any issue that arises in a proceeding that "was actually determined in a prior action, generally between the same parties, involving a different claim or cause of action." Tarus v. Borough of Pine Hill, 189 N.J. 497, 520 (2007) (citing Sacharow v. Sacharow, 177 N.J. 62, 76 (2003)). Collateral estoppel or issue preclusion "requires only that an issue of fact or law be determined in a valid proceeding and that final judgment on that issue was necessary to the decision. The decision on that issue is conclusive in any subsequent action between the parties on either the same or different claim." Pittman, 756 F. Supp. at 841–42 (citing Alfone v. Sarno, 87 N.J. 99, 112 n. 9 (1981); Taylor v. Engelhard Indus., 230 N.J. Super. 245, 253 (App. Div. 1989)). The party asserting collateral estoppel must show that:

- (1) the issue to be precluded is identical to the issue decided in the prior proceeding; (2) the issue was actually litigated in the prior proceeding; (3) the court in the prior proceeding issued a final judgment on the merits; (4) the determination of the issue was essential to the prior judgment; and (5) the party

against whom the doctrine is asserted was a party to or in privity with a party to the earlier proceeding.

[First Union Nat. Bank v. Penn Salem Marina, Inc., 190 N.J. 342, 352 (2007) (citing Hennessey v. Winslow Twp., 183 N.J. 593, 599 (2005)).]

In applying the doctrine of collateral estoppel to a petition for due process, an ALJ may bar a petitioner from seeking specific relief when such relief has already been determined unattainable in a previous final judgment. In K.S., the ALJ addressed, in an emergent relief action, whether the petitioner could re-litigate claims that the district failed to provide K.S. with a FAPE for the 2012–2013 school year. K.S., 2016 N.J. AGEN LEXIS 16. The ALJ held that the claims were barred by *res judicata* and collateral estoppel, finding that the issue had been fully litigated and resolved in an earlier due process proceeding, where it was determined that the district had provided FAPE. Id. at *11–17. Because the prior decision was final and involved the same parties and factual circumstances, the ALJ concluded that all elements of collateral estoppel were met and that the petitioner was precluded from re-litigating the issue. Id. at *11–17.

Although K.S. can be distinguished from the present matter because it involved questions regarding whether the placement offered would provide FAPE rather than questions regarding parental intent to re-enroll the student or request for an evaluation (the central issue here), the case remains instructive. It supports the broader application of collateral estoppel in special education hearings to prevent reconsideration of matters already finally adjudicated.

The first prong in determining collateral estoppel is whether “the issue to be precluded is identical to the issue decided in the prior proceeding.” First Union Nat. Bank, 190 N.J. at 352 (citing Hennessey, 183 N.J. at 599). Identity of the issue is established by showing “that the same general legal rules govern both cases and **that the facts of both cases are indistinguishable** as measured by those rules.” Suppan v. Dadonna, 203 F.3d 228, 233 (3d Cir. 2000) (quoting Charles Alan Wright, Arthur R. Miller & Edward H. Cooper, Federal Practice and Procedure § 4425, at 253 (1981)); Bland v. City of Newark, No. A-1800-19, 2021 N.J. Super. Unpub. LEXIS 2809, at *6 (App. Div. Nov. 16,

2021) (emphasis added). The party seeking to effectuate an estoppel has the burden of demonstrating the propriety of its application. Suppan, 203 F.3d at 233.

In this case, determining whether the District denied the child a FAPE by failing to develop an IEP or offering an appropriate placement depends on whether the District had a continuing duty to identify, evaluate, or offer FAPE after the parent unilaterally placed the child in a private school. When a parent unilaterally places their child in a private school, the public school district is generally not required to provide the full range of services or develop an annual IEP for that child. See 20 U.S.C. § 1412(a)(10)(A)(i) (outlining a district's responsibilities for children enrolled in private schools, which do not include maintaining an IEP).

However, this obligation can be reactivated if the parent demonstrates an intent to re-enroll the child in public school or requests an evaluation with that intention. Courts have held that a district must evaluate the child and propose an IEP once the parent seeks re-enrollment or requests such evaluations. See Moorestown Bd. of Educ. v. S.D., 811 F. Supp. 2d 1057 (D.N.J. 2011); I.H. v. Cumberland Valley Sch. Dist., 842 F. Supp. 2d 762 (M.D. Pa. 2012). Accordingly, the central issue in determining whether the District denied FAPE is whether the parent indicated an intent to re-enroll the student in public school or otherwise requested an evaluation triggering the District's duty.

In the Final Decision concerning the Middle School Petition, Judge Monaco determined that the District had no continuing duty to conduct an IEP evaluation during the 2018–2020 period in the absence of re-enrollment. That determination was based on findings in the record through the 2019–2020 school year, including the August 7, 2019, letter and the August 28, 2019, meeting with the Director of Pupil Services. Judge Monaco found that neither the letter nor the meeting demonstrated an intent to re-enroll the student, a request for an evaluation, or a request for an IEP meeting.

Petitioners contend that the record does not resolve “whether the parents’ August 2019 and **ensuing contacts** constituted requests for evaluation or services for high school, whether the District misstated prerequisites, or whether ‘child find’ duties applied.” (R-1, Br. in Opp. Mtn. at 4) (emphasis added). Petitioners allege that from 2019-2023

“petitioners sent follow-up communications regarding evaluation/services for high school; the District did not initiate an evaluation, provide an assessment plan, or make an IEP offer for high school” referencing “Email chain P-2; Correspondence log R-4.” (R-1, Resp. to Stmt. of Alleg. Mat. Facts, at 5).

However, the cited exhibits only show the August 7, 2019, letter and an email discussing the August 28, 2019, meeting, both communications already considered in the Final Decision by Judge Monaco, and do not demonstrate communications from 2019 through 2023. The District’s counsel also confirms that no additional evidence of communications beyond the 2019–2020 school year has been submitted. (R-2, Respondent’s Reply to Opp., at 4).

Since Judge Monaco’s Decision regarding the Middle School Petition already considered the communications between petitioner B.C. and the District, in denying the said petition, which are the same allegations made in the within petition, I **CONCLUDE** that the facts herein are indistinguishable from the facts in the case before Judge Monaco. Accordingly, I **CONCLUDE** that the prior issue, of whether the communications demonstrated an intent to re-enroll or a request for evaluation, is identical to findings made by Judge Monaco concerning the Middle School Petition, and therefore I **CONCLUDE** that there are no new facts and circumstances provided in the August 17 petition.

The second and third prongs in determining collateral estoppel are whether “the issue was actually litigated in the prior proceeding” and whether “the court in the prior proceeding issued a final judgment on the merits.” First Union Nat. Bank, 190 N.J. at 352. The Middle School Petition concerned five school years (2017–2018, 2018–2019, and 2019–2020), involved multiple hearings, included testimony from expert witnesses, cross-examination of District personnel, and the introduction of extensive documentary evidence. Both parties submitted comprehensive post-hearing briefs, and Judge Monaco issued a Final Decision addressing each of the petitioners’ claims on the merits, specifically the issue concerning whether the petitioners intended to reenroll or a request for an evaluation in August 2019. Moreover, Judge Monaco’s Decision “is final pursuant

to 20 U.S.C. § 1415(i)(1)(A),” which provides that “[a] decision made in a hearing conducted pursuant to subsection (f) or (k) shall be final.” 20 U.S.C. § 1415.

As I have already concluded above that there are no new facts and circumstances provided in the August 17 petition, which differ from the Middle School Petition, I therefore **CONCLUDE** that the issue of whether the communications demonstrated an intent to re-enroll or a request for evaluation was actually and finally litigated before Judge Monaco.

The fourth prong in determining collateral estoppel is whether “the determination of the issue was essential to the prior judgment.” First Union Nat. Bank, 190 N.J. at 352. The Final Decision issued by Judge Monaco reasoned that a district’s IDEA obligations arise only when a child is enrolled or when parents demonstrate their clear intention to seek services from the public school system. The Final Decision found that petitioners’ August 7, 2019, letter made no such request, and the August 28, 2019, meeting concluded with petitioners expressing no intent to re-enroll K.C. or request services from the District. (OAL-1 at 89). This finding was essential to the prior ruling because Judge Monaco held that the District had no obligation to evaluate K.C. or develop an IEP for the remainder of the 2018–2019 school year or 2019–2020 school year because petitioners did not re-enroll K.C. in the District, express any intent to re-enroll her, request an IEP, or request any evaluations. (OAL-1 at 88–89. I **CONCLUDE** that the determination by Judge Monaco as stated herein, was essential to the ruling in the due process hearing concerning the Middle School Petition.

The last prong in determining collateral estoppel is whether “the party against whom the doctrine is asserted was a party to or in privity with a party to the earlier proceeding.” First Union Nat. Bank, 190 N.J. at 352. The Middle School Petition and the August 17 petition were filed by the same petitioners, B.C. and K.C. on behalf of K.C., against the respondent District, and I therefore **CONCLUDE** that the parties against whom the doctrine is asserted are identical, and this element of collateral estoppel is satisfied without controversy.

For the reasons set forth herein, I **CONCLUDE** that all requirements of collateral estoppel have been met, and therefore petitioners are barred from relitigating the same in the within due process petition.

III. Statute of Limitations

Notwithstanding my ruling that petitioners are barred by collateral estoppel from proceeding with the within due process petition, I will address the District's argument that petitioners are further barred from proceeding with a claim for reimbursement for the 2020–2021 school year.

Under N.J.A.C. 6A:14-2.7 and 20 U.S.C. § 1415, “a request for a due process hearing shall be filed within two years of the date the party knew, or should have known, about the alleged action that forms the basis for the due process petition.” The two-year period for filing may be extended by an administrative law judge if:

- a. A district board of education specifically misrepresented to the parent that the subject matter of the dispute was resolved to the parent's satisfaction; or
- b. The district board of education withheld information that was required by law to be provided to the parent. N.J.A.C. 6A:14-2.7.

The controlling Third Circuit precedent is that a party “cannot escape [the] statute of limitations by invoking equitable tolling doctrines recognized under state law,” such as the continuing violation doctrine. D.K. v. Abington Sch. Dist., 696 F.3d 233, 248 (3d Cir. 2012).

Notwithstanding the ruling herein concerning the application of the collateral estoppel doctrine to within petition, petitioners' claim for reimbursement for the 2020–2021, ninth-grade school year is barred by the statute of limitations as set forth under N.J.A.C. 6A:14-2.7. The regulatory two-year limitations period began to run when petitioners knew or should have known about the alleged action forming the basis of their claim.

The 2020–2021 school year concluded in June of 2021, and petitioners were fully aware of their unilateral placement decision and any potential claims for reimbursement, as the student had been enrolled out of district at the Craig School since the 2017–2018 school year.

Treating June 2021 as the accrual date affords petitioners the benefit of significant latitude, despite the fact that they necessarily knew prior to the start of the 2020–2021 school year that they would again enroll K.C. in a unilateral placement. Thus, any claims for reimbursement accrued well before the school year ended, and any petition had to be filed no later than June of 2023. However, petitioners did not file the August 17 petition until August 17, 2023, which is two months past the statutory deadline.

Equitable tolling doctrines cannot be invoked to circumvent the statutory limitations period in this context, and therefore do not provide petitioners with relief. See D.K. v. Abington Sch. Dist., 696 F.3d 233, 248 (3d Cir. 2012).

Petitioners' untimely filing is particularly significant given that during this same period, they were actively litigating the Middle School Petition, in which the statute of limitations regarding the sixth-grade school year was specifically at issue. The ongoing due process litigation put petitioners on actual notice of the critical importance of timely filing any due process petitions. However, petitioners failed to act within the prescribed timeframe.

The prior Final Decision concerning the Middle School Petition also explicitly held that the District had no obligation to develop an IEP for K.C. during the seventh and eighth-grade school years while K.C. was unilaterally placed out of District. By the conclusion of the 2020–2021 school year, K.C. had not been enrolled in the District for three years, further demonstrating that petitioners were fully aware of the student's placement status and any potential claims arising from that status.

There are two exceptions to the statute of limitations provided under N.J.A.C. 6A:14-2.7(a), which do not apply here. There is no evidence or any allegations made in

the Middle School Petition that the District misrepresented any relevant facts or withheld information from petitioners that would have prevented them from timely filing.

Based upon the foregoing, I **CONCLUDE** that the August 17 petition was filed beyond the applicable two-year statute of limitations and neither exception applies, petitioners' claim for reimbursement for the 2020–2021 school year is barred and must be dismissed pursuant to N.J.A.C. 6A:14-2.7 and 20 U.S.C. § 1415.

ORDER

Based upon the foregoing, it is **ORDERED** that the District's motion for summary decision is **GRANTED**, and the due process petition herein be and hereby is **DISMISSED**, and the requested relief be and hereby is **DENIED**.

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.

June 4, 2026

DATE



JULIO C. MOREJON, ALJ

Date Received at Agency

June 4, 2026

Date E-Mailed to Parties:

June 4, 2026

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APPENDIX

Exhibits

OAL

OAL-1 B.C. and K.C. on behalf of K.C. v. Morris School District Board of Education, EDS 13866-19

Petitioner

- P-1 Petitioner's Brief Opposing Motion For Summary Decision
- P-2 Response to Respondent's Statement of Alleged Material Facts

Respondent

- R-1 Respondent's Brief in support of motion for summary decision
- R-2 Respondent's reply brief
- R-3 Respondent's Certification of Counsel with exhibits A, B and C
- R-4 Exhibit A, Final Decision concerning EDS 13866-19, issued by The Honorable Administrative Law Judge Margaret M. Monaco on May 28, 2025.
- R-5 Exhibit B, Due Process Petition dated August 17, 2023.
- R-6 Exhibit C, Answer dated November 2, 2023.