



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 02437-26

AGENCY DKT. NO. 2026-40260

A.G. AND N.F. ON BEHALF OF A.G.,

Petitioners,

v.

MOUNTAIN LAKES BOROUGH BOARD

OF EDUCATION,

Respondent.

A.G.F.¹ and N.F., petitioners, pro se

Vittorio S. LaPira, Esq., for respondent (Fogarty, Hara, LaPira & Cherry, LLC,
attorneys)

Record Closed: May 1, 2026

Decided: May 22, 2026

BEFORE **MICHAEL R. STANZIONE**, ALJ:

¹ While the matter was transmitted to the OAL as A.G. and N.F. on behalf of A.G., these initials do not represent the mother's and child's full names. Initials representing their full names are used throughout this decision.

STATEMENT OF THE CASE

Petitioners, parents of minor student A.G.F., who is eligible for special education and related services, contend that respondent Mountain Lakes Borough Board of Education (District) violated the Individuals with Disabilities Education Act (IDEA) when it denied them an in-person individualized education program (IEP) meeting and conducted one via the Google Meet platform. They seek an order to attend and support the student's IEP in-person and request compensatory education. Did respondent violate the IDEA when it held the IEP meeting without petitioners? No. Petitioners refused to attend the meeting via Google Meet, which respondent scheduled in coordination with petitioners. 34 C.F.R. 300.321(a)(1) (2025); 34 C.F.R. 300.322(a) (2025).

PROCEDURAL HISTORY

Petitioners filed a request for a due process hearing against the District with the Office of Special Education (OSE), New Jersey Department of Education, on January 12, 2026. The due process petition was transmitted by the OSE to the Office of Administrative Law (OAL), where on February 11, 2026, it was filed as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -23. The first prehearing conference was scheduled for February 17, 2026, but petitioners failed to appear. The first prehearing conference was rescheduled and held on March 4, 2026, and the hearing was scheduled to be held on April 22, 2026.

On April 20, 2026, respondent filed a motion to exclude and limit exhibits and testimony. The motion to exclude exhibits and testimony was denied on April 22, 2026, prior to the start of the hearing.

The hearing was held on April 22, 2026. The record remained open for the parties to submit post-hearing briefs, which were received on May 1, 2026.

FACTUAL DISCUSSION AND FINDINGS

During the hearing, the District offered testimony by Trish Spence-Reid, learning disabilities teacher-consultant (LDT-C) for the District, and Kerry DiGiacinto, director of special services. Petitioner Dr. G.F. (mother) testified on behalf of herself and Mr. F. The relevant facts are largely undisputed. Based upon a review of the testimony and the documentary evidence presented, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following **FACTS**.

Petitioners are the parents of minor student A.G.F., who is eligible for special education and related services under the classification of Auditory Impairment. R-6. He also has executive function disorder and ADHD. In response to outside actions taken by petitioners, the District has prohibited them from being present on school grounds.

On February 11, 2026, an email was sent to Dr. G.F. and N.F. inviting them to A.G.F.'s annual review to be conducted virtually. R-7. In a reply email, Dr. G.F. indicated that she believed in-person participation was necessary and they did not consent to a virtual only meeting. R-7. In a March 6, 2026, email, Spence-Reid sent a reminder that A.G.F.'s annual review of his IEP was being held on Monday, March 9, 2026, at 12:00 p.m. (through Google Meet). R-9. A hotspot was being made available to Dr. G.F. and Mr. F. to alleviate any connection issues for the virtual meeting. Ibid. Dr. G.F. replied that they would be at the meeting and would pick up the hot spot. Ibid. The meeting was later rescheduled as Dr. G.F.'s other child had a doctor's appointment. Ibid.

On March 12, 2026, an email was sent to Dr. G.F. reminding the parents of A.G.F. that they were not allowed on campus for meetings. R-10. Dr. G.F. responded that she was not comfortable with A.G.F. attending the annual review without her physical presence. Ibid. The meeting took place on March 13, 2026, and A.G.F. was not in school that day. Dr. G.F. answered the phone and indicated she did not want to participate as she was uncomfortable attending virtually. The proposed IEP was sent home to the parents and finalized after fifteen days had passed without a signature. The finalized IEP was sent on April 1, 2026, and remains unopened by the parents. R-12.

DiGiacinto testified that “virtual” IEP meetings have been occurring since the pandemic. Even though in-person meetings are again allowed, the majority do occur through the Google Meet platform. To accommodate the parents of A.G.F. and address any connection issues, a secure hotspot was offered, and respondent offered to have all referenced documents printed ahead of time. To alleviate the parents’ reservations about privacy, respondent had also arranged to have everyone in one room at the school and to have the entire room visible on camera.

Dr. G.F. did not understand why she was previously permitted to attend a book fair, which was held in the gym, but not the IEP meeting.

Dr. G.F. prefers in-person meetings because she is uncomfortable communicating with people via virtual platform. It is important for Dr. G.F. to be able to see the meeting participants so she can assess their facial expressions and body language. Petitioners are also concerned that they will not be able to see all meeting attendees if they are not in the room with them. During a prior meeting, petitioners could not tell whether people were participating in the meeting or if there were people present that were not supposed to be there. It makes Dr. G.F. feel “less comfortable,” and she cannot “meaningfully participate” when she cannot tell if the other participants are focusing or if other people are in the room.

Dr. G.F. would have felt more confident expressing her concerns in person, with the benefit of having the documents in front of her. She did not want to share private information by email.

LEGAL ANALYSIS AND CONCLUSIONS

The IDEA requires that a state receiving federal education funding provide a free appropriate public education (FAPE) to disabled children. 20 U.S.C. § 1412(a)(1). School districts provide a FAPE by designing and administering a program of individualized instruction that is set forth in an IEP. 20 U.S.C. § 1414(d). 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 consisting of special

education and related services provided in conformity with an IEP. 20 U.S.C. §§ 1401(9), 1412(a)(1). The responsibility to provide a FAPE rests with the local public school district. 20 U.S.C. § 1401(9); N.J.A.C. 6A:14-1.1(d). The district bears the burden of proving that a FAPE has been offered. N.J.S.A. 18A:46-1.1.

A procedural violation can amount to a substantive violation of the IDEA when the “procedural inadequacies (i) [i]mpeded the child’s right to a FAPE, (ii) significantly impeded the parent’s opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent’s child; or (iii) caused a deprivation of the educational benefit.” Coleman v. Pottstown Sch. Dist., 983 F. Supp. 2d 543, 564 (E.D. Pa. 2013), aff’d, 581 F. App’x 141 (3d Cir. 2014); 20 U.S.C. § 1415(f)(3)(E); Winkelman v. Parma City Sch. Dist., 550 U.S. 516 (2007). See also Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley, 458 U.S. 176, 205–06 (1982) (“Congress placed every bit as much emphasis upon compliance with procedures giving parents and guardians a large measure of participation at every stage of the administrative process, as it did upon the measurement of the resulting IEP against a substantive standard.”).

Under the IDEA, parents are mandatory members of the IEP team, and the District is required to ensure that they are present at each IEP meeting or are afforded an opportunity to participate. 34 C.F.R. 300.321(a)(1) (2025); 34 C.F.R. 300.322(a) (2025). In conjunction with this obligation, the District must provide timely notice of IEP meetings to the parents and schedule meetings at places and times that are mutually agreed upon. 34 C.F.R. 300.322(a)(1), (2) (2025). Parents must be permitted to “meaningfully” participate in the creation of the IEP. D.S. v. Bayonne Bd. of Educ., 602 F.3d 553, 565 (3d Cir. 2010). If neither parent can attend an IEP meeting, the school district must utilize other methods to ensure their participation. Video and telephone conferences are acceptable alternative methods. 34 C.F.R. 300.328 (2025). Under 34 C.F.R. 300.222(c) (2025), “individual” telephone calls, in addition to conference calls, are permissible. The IEP team may proceed without the parents if the school district “is unable to convince the parents that they should attend.” 34 C.F.R. 300.322(d) (2025). The district “must keep a record of its attempts to arrange a mutually agreed on time and place.” Ibid.

A school district must comply with the above requirements even if it has issued an order barring a parent from the school grounds. Greenwood Cmty. Sch. Corp., 121 LRP 19201 (Ind. SEA 2021); Brookesmith (TX) Indep. Sch. Dist., 52 IDELR 110 (OCR 2009); Beaverton Sch. Dist. 48J, 73 IDELP 106 (Or. SEA 2018).²

A parent can be deemed to have refused to attend a meeting. In A.L. v. Jackson County School Board, 635 F. App'x 774 (11th Cir. 2015), a parent claimed that the school district violated the IDEA when it did not include her in an IEP meeting. The school board attempted to schedule the meeting for over four months and made efforts to accommodate the parent's schedule and demands. However, the parent either missed or refused to consent to four separately scheduled meetings. Before the last scheduled meeting, the parent sent an email advising that she could not attend the meeting because she was sick. The Board advised that it needed to proceed with the meeting due to the student's "urgent academic and emotional needs" and offered to permit her to attend via telephone, as she had during prior meetings. Id. at 780. The parent refused the offer. The court observed that the student's "specific educational goals stagnated because of [the parent's] seemingly endless requests for continuances of the meetings" and the school board "faced the dilemma of allowing the IEP meeting to be continued indefinitely or proceeding with the meeting without parent participation." Ibid. It found that although the parent did not "explicitly refuse" to attend the meeting, "her actions were tantamount to refusal." Ibid. It held that, given these circumstances, the school board did not violate the IDEA when it proceeded with the meeting without the parent. The court highlighted the need to address the student's significant needs and that the parent caused all the IEP meeting delays.

The A.L. court contrasted its decision with Doug C. v. Hawaii Department of Education, 720 F.3d 1038 (9th Cir. 2013), in which the meeting was scheduled to avoid inconvenience to IEP team members. In Doug C., the IEP meeting was tentatively scheduled three times after the parent advised he could not participate on those days. The morning of the fourth scheduled meeting, the parent again asked for it to be

² Unpublished and administrative decisions are not precedential. They are referenced here to the extent they provide relevant guidance.

rescheduled because he was ill and did not feel well enough to participate by telephone. He also stated that he could not at that time confirm his availability on alternative dates. Because the meetings involved thirteen participants whose schedules were already changed three times, and the parent did not make a firm commitment about his future availability, school personnel opted not to reschedule and held the meeting without him. During the meeting, the IEP team changed the student's school placement.³ They held a "follow-up IEP meeting" with the parent approximately one month later, and the parent rejected the IEP because he was excluded from its development. Id. at 1042. The circuit court held that the parent did not affirmatively refuse to attend the meeting, and the school district was not in the position of being unable to convince him to attend, as required by 34 C.F.R. 300.322(d) (2025). It found that he "vigorously objected" to the IEP meeting being held without him, asked that school personnel reschedule it to the following week, and advised that he was unable to confirm his availability on the other dates offered by the school. Id. at 1044. Noting that parental participation is more important than that of other IEP team members, the court found that the school district improperly prioritized the other team members' needs over the parent's right to participate. It noted, "We have consistently held that an agency cannot eschew its affirmative duties under the IDEA by blaming the parents." Id. at 1045. Moreover, "parental participation is key to providing the *student* an adequate education because '[a]n IEP which addresses the unique needs of the child cannot be developed if those people who are most familiar with the child's needs are not involved.'" Ibid. (citation omitted). Thus, the school district was obligated to include the parent when he "expressed a willingness (indeed eagerness) to participate, albeit at a later date." Ibid. The "fact that it may have been frustrating to schedule meetings with or difficult to work with [the parent] . . . does not excuse" the failure to include him in the IEP meeting "when he expressed a willingness to participate." Ibid.⁴

³ The court noted that this was the first change to the IEP in six years.

⁴ The court also rejected the school district's argument that it was required to proceed because it was obligated to conduct an annual IEP review. It held that while parental participation is of paramount importance, a procedural violation such as delayed IEP meetings does not deny a student a FAPE when the student is not deprived of an educational benefit. Having held that there is no authority for cessation of the provision of special education if the annual meeting is delayed, the court found that the services would continue to be provided to the student and thus there would not be a denial of FAPE. It also rejected the argument that the IDEA was not violated because a follow-up meeting was held with the parent. Post-hoc parental involvement is insufficient because the IDEA requires parental participation in the "creation process." Id. at 1047. The IEP was already created and adopted by the time of the follow-up meeting.

The Doug C. court acknowledged that there may be “circumstances in which accommodating a parent’s schedule would do more harm to the student’s interest than proceeding without the parent’s presence at the IEP.” Id. at 1046. It cited A.M. v. Monrovia Unified School District, 627 F.3d 773 (9th Cir. 2010), in which the circuit court held that it was appropriate to proceed with an IEP meeting without the parents. The student was newly enrolled and did not have an IEP. The parents canceled an agreed-upon IEP meeting three days prior to the meeting and would only consent to new meeting dates that were well beyond the deadline for creation of an IEP. They also refused to participate by telephone. The court held that the school district properly proceeded without the parents because it took steps to obtain their attendance and the parents refused.

In Shapiro v. Paradise Valley United School District No. 69, 317 F.3d 1072 (9th Cir. 2003), superseded on other grounds by 20 U.S.C. § 1414(d)(1)(B) (2003), the parents advised that they were unavailable on the date the school district selected for an IEP meeting and requested postponement of the meeting. The school district did not postpone because some of the IEP team members were unavailable shortly after the original meeting date. The meeting proceeded on the original date, without the parents, and the IEP that was drafted was based upon information gathered from prior meetings with the parents. The court found that the parents did not refuse to attend the meeting and that the district improperly prioritized its staff’s schedules over those of the parents. It rejected the contention that the parents contributed to the IEP meeting because they were asked to approve the IEP and they participated in prior IEP meetings. It reiterated that “[a]fter-the-fact parental involvement is not enough” and that partial inclusion in the process can be sufficient. Id. at 1078.

Here, the IEP meeting was scheduled, petitioners initially agreed to the date, time, and virtual platform. Petitioners requested the meeting to be rescheduled due to another child’s doctor’s appointment, which the respondent obliged. Petitioners later advised that they did not want to proceed on a virtual platform, citing connection and privacy issues. They also did not accept respondent’s offer of a mobile hotspot. They claim that the virtual platform was inappropriate because it prevented them from meaningfully participating in the meeting. As noted above, the IDEA’s regulations expressly permit

virtual IEP meetings and do not require that all participants sit in the same room during the meeting. Since the COVID-19 pandemic, it is common that virtual technology enables participants to attend and successfully participate in meetings from a variety of locations. Moreover, as the regulations also permit participation by telephone, they do not require that participants be able to see each other. Thus, although Dr. G.F. expressed concern about not being able to fully participate without seeing each participant's facial expressions and body language, this is not required by the regulations. With respect to petitioners' concern that they could not know who was in each room, whether additional persons were entering or present off camera, or whether participants were engaged rather than multitasking, there is no evidence that this adversely impacted their participation. Further, respondent had planned to have all of its participants and A.G.F. in one room with the entire room visible on camera. Moreover, petitioners did not cite authority supporting their contention that this would somehow render virtual attendance inappropriate. In sum, petitioners' rationale for not attending the meeting is unfounded, and the controlling law does not support their arguments.

The District endeavored to ensure that the parents would be comfortable enough with the virtual platform to attend the meeting, notwithstanding the order that they were not allowed on school property, and that petitioners refused to attend because they preferred to attend in person. The IDEA and its enabling regulations do not require in-person attendance and, moreover, there is insufficient evidence in the record to support a finding that the virtual meeting format was improper or faulty. Rather, petitioners refused to attend the meeting, and the evidence suggests that they did so in an effort to bypass the no-trespass order, the validity of which is not at issue here. For all these reasons, I **CONCLUDE** that the District did not violate the IDEA when it proceeded with the meeting without petitioners.

ORDER

For the foregoing reasons, I **ORDER** that respondent did not violate the IDEA and petitioners' due process 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 parents feel 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.

May 22, 2026

DATE


MICHAEL R. STANZIONE, ALJ

Date Received at Agency:

May 22, 2026

Date Mailed to Parties:

APPENDIX

Witnesses

For petitioners:

Dr. G.F.

For respondent:

Trish Spence-Reid

Kerry DiGiacinto

Exhibits

For petitioners:

- P-1 October 4, 2024, Email
- P-2 March 2, 2026, invitation for annual review scheduled March 3, 2026
- P-3 March 4, 2026, updated invitation for annual review
- P-4 March 12, 2026, email stating petitioner not comfortable with A.G.F. attending the annual review without parent physically present
- P-9 Petitioners' response to respondent's request to preclude evidence
- P-11 January 21, 2026, email
- P-12 January 8, 2026, unannounced assignments email
- P-13 January 28, 2026, Math test retake email.

For respondent:

- R-1 Email from Spence-Reid to petitioners attaching invite to a virtual annual review meeting.
- R-2 Email from Spence-Reid to petitioners requesting consent for audiological exam for A.G.F.

- R-3 Consent form signed by petitioner for A.G.F.'s audiological exam
- R-4 Email from Spence-Reid to petitioners requesting a meeting to discuss A.G.F.'s audiological examination.
- R-5 Email from Spence-Reid to petitioners attaching updated IEP for A.G.F.
- R-6 IEP for A.G.F. effective October 27, 2025
- R-7 Email from Spence-Reid to petitioners attaching invite to a virtual annual review meeting
- R-9 Email from Spence-Reid to petitioners regarding March 9, 2026, virtual annual IEP meeting
- R-10 Email from Spence-Reid to petitioners offering a virtual hotspot
- R-11 A.G.F.'s most recent IEP
- R-12 Finalized IEP sent to petitioners
- R-13 Email from DiGiacinto regarding accommodations the school will make to address the parents' concerns with virtual meetings