



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 01303-26

AGENCY DKT. NO. 2026-40324

**WEST ORANGE TOWN
BOARD OF EDUCATION,**

Petitioner,

v.

G.B. ON BEHALF OF P.B.,

Respondents.

Jared S. Schure, Esq., for petitioner (Methfessel & Werbel, attorneys)

G.B., pro se, for respondents

Record Closed: February 19, 2026

Decided: February 19, 2026

BEFORE **MATTHEW G. MILLER, ALJ**:

STATEMENT OF THE CASE

The Board of Education of the West Orange Town, Essex County (“West Orange BOE” or “District”), filed a Petition for Due Process against G.B. on behalf of P.B. to deny a request for an independent educational evaluation (“IEE”).

PROCEDURAL HISTORY

On January 5, 2026, respondents G.B. (mother) and P.B. (son) requested an IEE, although she did not specify what type of evaluation that should be. On January 23, 2026, per N.J.A.C. 6A:14-2.5(c)(1)(i), petitioner, West Orange BOE, filed a Petition for Due Process (Petition) against the respondents, seeking to deny the request for an IEE. The matter was transmitted by the New Jersey Department of Education (Department), Office of Special Education, to the Office of Administrative Law (OAL), where it was filed on January 23, 2026. Telephone prehearing conferences were scheduled for January 27 and January 29, 2026, but the respondent failed to appear. A hearing was scheduled for February 24, 2024, but on February 4, 2026, petitioner filed a Motion for Summary Decision. A briefing schedule was set and the record on the Motion was closed on February 19, 2026.

MOTION

Petitioner West Orange BOE filed a Motion for Summary Decision, based on the very simple proposition that G.B. has never specified what type of “independent educational evaluation” she is requesting. While conceding that there are situations where a parent may be entitled to an IEE per N.J.A.C. 6A:14-2.5 et seq., the parent must, at the very least, specify the type of evaluation they are seeking. N.J.A.C. 6A:14-2.5(c). The parent must also express the reason for their disagreement with any evaluation covering the area/topic that has been previously performed.

Here, the petitioner points out that G.B.’s initial January 5, 2026, email did not comply with those Administrative Code regulations. Then, when the District emailed her later that day asking, “which independent educational evaluation” she was requesting, she replied with a generalized complaint concerning P.B.’s overall evaluation, calling it “incomplete, insufficient, and procedurally flawed,” along with a generic review of basic IEE law and language.

Given that the respondent's request is legally invalid, the District argues that Summary Decision is appropriate.

In opposition to the Motion, G.B. submitted an email forwarding prior emails which detailed her discontent with the District and her grievances with what she considers a delay in the IEP process. While she now "agree(s) that (P.B.) requires an IEP," she "firmly dispute(s) the district's evaluation, which is incomplete, biased, and unsupported by sufficient data."

She continues to oppose portions of the IEP and the amount of home instruction time P.B. is receiving. She concludes her opposition with:

For these reasons, I formally dispute the district's conclusions and demand an Independent Educational Evaluation at public expense.

FACTUAL STIPULATIONS AND FINDINGS

Because the following is undisputed, I **FIND** the following as **FACT**.

1. P.B. is a five-and-a-half-year-old kindergartener assigned to Hazel Avenue Elementary School who is eligible for special education under the classification Emotional Regulation Disorder.
2. G.B. is P.B.'s mother.
3. P.B. was initially evaluated for eligibility for special education on or about September 15, 2025.
4. In conjunction with the determination that P.B. was eligible for special education, the District conducted the following evaluations (all 2025);
 - a. October 2 – Functional Behavior Assessment (P-B.)
 - b. October 24 – Occupational Therapy Evaluation (P-C.)

- c. November 10 – Psychoeducational Assessment (P-D.)
- d. November 14 – Speech-Language Assessment (P-E.)
5. Based upon the results of the above-listed evaluations, the District, on or about December 15, 2025, proposed initial eligibility for special education under the classification of Emotional Regulation Impairment and proposed an initial IEP for P.B. (P-F.)
6. G.B. declined to accept the classification or consent to an IEP and on January 5, 2026, she also requested an “Independent Educational Evaluation.” (P-G.)
7. Due to significant behavioral issues, G.B. is currently receiving “administrative home instruction.”

CERTIFICATION OF DAWN LABOY

Ms. Laboy is employed by the District as a school social worker¹ and case manager and has been personally involved with the case. She certified that the District “conducted a battery of initial evaluations” and proposed classifying P.B. as eligible for special education under the classification of Emotional Regulation Impairment. However, G.B. has not consented to P.B. being eligible for these services, so “he remains a general education student on administrative home instruction.”

She then reviewed the individual evaluations that have been performed and noted that it was during the December 15, 2025 meeting of the Child Study Team (which included P.B.) that P.B.’s eligibility was discussed and the IEP formulated. Ms. Laboy further certified that she received G.B.’s January 5, 2026 email requesting an IEE. She responded to G.B., requesting what type of IEE she wanted performed and received the vague reply that she was looking for “[a]dditional and comprehensive assessments” and “an Independent Educational Evaluation at public expense[.]”

¹ Ms. Laboy is a Licensed Clinical Social Worker. (P-1.)

Ms. Laboy then reviewed the requirements for the performance of an IEE as delineated in N.J.A.C. 6A:14-2.5 et seq., but, as importantly, she also pointed to the New Jersey Department of Education's guidance in this area (which will be reviewed below), which she certified justified the District's decision to file the due process petition.

Finally, she certified the following:

21. Even if Respondent's request for independent evaluations complied with the Code and NJDOE guidance, which it does not, the District would not provide any independent evaluations because they are completely unnecessary and inappropriate.
22. In my professional opinion, and in the unanimous professional opinions of the entire CST, the District already possesses all of the evaluative information it needs in order to make informed decisions about P.B.'s eligibility, placement, and programming, and to propose an IEP that is reasonably calculated to ensure that P.B. makes meaningful academic progress – i.e., that provides him with a free and appropriate education.
23. In my professional opinion, and in the unanimous professional opinions of the entire CST, P.B. was assessed in all areas of suspected need by properly certificated professionals, and the results of the evaluations were accurate and reflective of P.B.'s strengths, weaknesses, and abilities.
24. In my professional opinion, and in the unanimous professional opinions of the entire CST, no independent evaluations are necessary or appropriate at this time. The District has all of the evaluative information it needs.

[P-I.]

EMAIL EXCHANGE

While there has been reference to the email exchanges between G.B. and the District, the only relevant exchange occurred as follows:

1. January 5, 2026 @ 11:03 a.m. – G.B. to District – “Once again, I am formally requesting an Independent Educational Evaluation (IEE).”
2. January 5, 2026 @ 3:58 p.m. – Ms. Raboy to G.B. – “We never received a request from you for an independent educational evaluation. Please forward it to us. Also, which independent educational evaluation are you requesting? Kindly advise.”
3. January 6, 2026 @ 4:30 p.m. – G.B. to District – “This correspondence serves as my formal, written, and unequivocal notice of disagreement with the school district’s evaluation(s) of my child, (P.B.), who is currently enrolled in kindergarten. I disagree with the district’s evaluation in all areas assessed, including but not limited to the methods used, the scope of assessment, the interpretation of data, and the conclusions and recommendations relied upon in the development and implementation of the IEP. The evaluation conducted by the district was incomplete, insufficient, and procedurally flawed. It failed to adequately assess (P.B.) across all areas of suspected disability and did not provide a comprehensive picture of his educational, developmental, behavioral, and functional needs. As a result, the evaluation cannot be relied upon to support appropriate educational planning, services, or placement decisions.”
4. January 6, 2026 @ 6:19 p.m. – Attorney to G.B. – “I represent the West Orange Board of Education. I am responding on my client’s behalf because you have threatened to file a complaint or due process proceeding. The Code gives the District 20 days to file for due process or grant your request. I will advise as to the District’s decision no later than January 25th. If the District grants your request, we will gladly provide the information you requested in (3), below.”

[P-G and P-H.]

NJDOE GUIDANCE

On July 7, 2015, the New Jersey Department of Education's Office of Special Education authored guidance to school districts concerning IEEs. This letter reads, in pertinent part, as follows:

SUBJECT: Guidance with Respect to Federal Regulations Implementing the Individuals with Disabilities Education Act of 2004 – Independent Educational Evaluations

I am writing to provide clarification regarding a parent's right to an independent educational evaluation (IEE). Changes to Chapter 14 of the Administrative Code, Special Education were effective on February 2, 2015. Among the changes was the requirements that parents specify the assessment or assessments they are seeking in a request for an IEE (N.J.A.C. 6A:14-2.5(c)). This language was included in an attempt to facilitate the district's response to a parental request, by providing clarification to the district regarding the requested assessments. However, it must be stressed that while it is not unreasonable to ask a parent to specify the assessment(s) they are seeking, the school district may not delay provision of an IEE or filing a request for a due process hearing, to show that its evaluation is appropriate, solely because the parents did not specify the assessment(s) they are seeking as part of the independent evaluation. **If the request for an IEE does not specify the assessment(s) being sought, the district should immediately inquire as to what assessment(s) the parent is seeking and either arrange for provision of the assessment(s) or file for a due process hearing to seek to deny the request.** If the district does not file a request for a due process hearing, it must ensure that the IEE is provided at public expense and without undue delay. (emphasis in original)

[P-I.]

LEGAL DISCUSSION

Summary decision may be granted "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). The OAL summary decision rule is essentially the same as the summary judgment rule under the New Jersey Court Rules, which states:

The judgment or order sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories and admissions on file, 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 a judgment or order as a matter of law. An issue of fact is genuine only if, considering the burden of persuasion at trial, the evidence submitted by the parties on the motion, together with all legitimate inferences therefrom favoring the non-moving party, would require submission of the issue to the trier of fact.

[R. 4:46-2(c).]

The New Jersey Supreme Court has modified and clarified the analysis required when considering a motion for summary decision/judgment. In Brill v. Guardian Life Ins. Co. of America, 142 N.J. 520, 540 (1995), the Court adopted the summary judgment standard utilized by federal courts:

Under this new standard, a determination whether there exists a “genuine issue” of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party. The “judge’s function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” [Anderson v. Liberty Lobby, 477 U.S. 242, 249, 106 S. Ct. 2505, 2511, 91 L. Ed. 2d 202, 212 (1986).] . . . If there exists a single, unavoidable resolution of the alleged disputed issue of fact, that issue should be considered insufficient to constitute a “genuine” issue of material fact for purposes of Rule 4:46-2. Liberty Lobby, supra, 477 U.S. at 250, 106 S. Ct. at 2511, 91 L. Ed. 2d at 213. The import of our holding is that when the evidence “is so one-sided that one party must prevail as a matter of law,” Liberty Lobby, supra, 477 U.S. at 252, 106 S. Ct. at 2512, 91 L. Ed. 2d at 214, the trial court should not hesitate to grant summary judgment.

[ibid.]

The burden is on the moving party to exclude all reasonable doubt as to the existence of any genuine issue of material fact and all inferences of doubt are drawn against the moving party and in favor of the non-moving party. Saldana v. DiMedio, 275 N.J. Super. 488, 494 (App. Div. 1994). The critical question, therefore, is “whether the evidence presents a sufficient disagreement to require [a hearing] or whether it is so one-sided that one party must prevail as a matter of law.” Brill, 142 N.J. at 533 (citation omitted). If the non-moving party's evidence is merely colorable or is not significantly probative, summary judgment should not be denied. See Bowles v. City of Camden, 993 F. Supp. 255, 261 (D.N.J. 1998).

In part, the purpose of special education is to ensure that all students with disabilities have available to them a free, appropriate public education (FAPE) as that standard is set under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400 et seq.). N.J.A.C. 6A:14-1.1(b)(1). Per 20 U.S.C. § 1401(9), a FAPE means special education and related services that – (A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program (IEP) required under section 614(d) [20 U.S.C. § 1414(d)].

Generally, “evaluation” means procedures used in accordance with C.F.R. §§ 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. 34 C.F.R. § 300.15 (2025). Each public agency must conduct a full and individual initial evaluation, in accordance with 34 C.F.R. §§ 300.304 through 300.306, before the initial provision of special education and related services to a child with a disability. 34 C.F.R. § 300.301(a) (2025).

N.J.A.C. 6A:14-2.5(c) and 34 C.F.R. § 300.502 (2024) govern independent evaluations. N.J.A.C. 6A:14-2.5(c) states in pertinent part:

Upon completion of an initial evaluation . . . , a parent may request an independent evaluation if there is disagreement with the initial evaluation . . . provided by a district board of education A parent shall be entitled to only one independent evaluation at the district board of education's expense each time the district board of education conducts an initial evaluation . . . with which the parent disagrees. The request shall specify the assessment(s) the parent is seeking as part of the independent evaluation.

In addition, 34 C.F.R. § 300.502(b)(1) (2024) outlines that “[a] parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency subject to the conditions in paragraphs (b)(2) through (4) of this section.” In conducting those evaluations, the LEA shall:

- (A) use a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that may assist in determining whether—
 - (i) the child is a child with a disability; and
 - (ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities;
- (B) not use any single procedure as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and
- (C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

[20 U.S.C. §1414(b)(2)(A)–(C).]

Upon receipt of a parent’s request for an independent evaluation, the district shall either provide the independent evaluation or request a due process hearing not later than twenty calendar days after receipt of the parent’s independent evaluation request. N.J.A.C. 6A:14-2.5(c)(1)(i) and (ii); see 34 C.F.R. § 300.502(b)(2) (2024). The requested

“independent evaluation(s) shall be provided at no cost to the parent, unless the district board of education initiates a due process hearing to show that its evaluation is appropriate and, following the hearing, a final determination to that effect is made.” N.J.A.C. 6A:14-2.5(c)(1); see 34 C.F.R. § 300.502(b)(3) (2024).

In reviewing the sequence of events leading up to the filing of this petition and, ultimately, this Motion for Summary Decision, we see a not uncommon scenario. We have a very young student just beginning his educational journey, whom both sides agree is struggling and needs some sort of educational assistance/guidance. We have a *pro se* parent who is enthusiastically and/or aggressively (depending on your perspective) advocating for her son and who disagrees with the way he is being both portrayed and handled by the District. We also have a District that professes that it is acting in the best interests of the child and a parent who has grave doubts that this is true.

More importantly here, however, we have a parent who is clearly familiar with the basic language and goals of the IDEA but who, unfortunately, demonstrates a lack of understanding of how its often complicated provisions work. That lack of understanding is exemplified by the “opposition” to the District’s Motion. In her email, G.B. rattles off a litany of complaints, beginning with a perceived delay in the development of P.B.’s IEP, before delving into disputes with his teacher and paraprofessional, his exclusion from in-person classes and the evaluation process as a whole.

And, frankly, at least some of those allegations did cause me to raise an eyebrow. The problem for G.B., however, is that for all her warnings that she would file a due process petition, this petition was filed by the District for a very specific and very limited reason. In response to the respondent’s general complaint of P.B.’s overall evaluation, the District, as permitted by law, requested that G.B. specifically delineate which of the six evaluations she was referencing. In reply, the District received a generic “the entire process was unfair and biased and unsupported by sufficient data and is violative of the IDEA” non-response. Even in her opposition, she still failed to delineate what evaluation(s) she is seeking and how or why she disagrees with those already performed. This general “the District is not complying with the IDEA” argument, while perhaps

sufficient to support a potential due process petition of her own, is simply insufficient, as a matter of law, to satisfy the requirements of N.J.A.C. 6A:14-2.5(c).

Given the unopposed certification of Ms. Laboy, the undisputed facts cited above, the inadequate nature of G.B.'s opposition² and the dictates of N.J.A.C. 6A:14-2.5(c), I **CONCLUDE** that the District obtained the required functional, developmental, and academic information to determine continued eligibility for special education and related services and to determine the contents of P.B.'s IEP, including an appropriate educational program. I further **CONCLUDE** that the evaluations were sufficiently comprehensive to identify P.B.'s special education and related services needs. Accordingly, I **CONCLUDE** that the District's evaluations from October through November 2025 were appropriate and that the respondents do not have a right to any additional evaluations at public expense.

ORDER

It is hereby **ORDERED** that the District's evaluations were appropriate and the respondent's request for an IEE, be and is hereby **DENIED**.

² While I acknowledge that G.B.'s opposition does not comply with the requirements of N.J.A.C. 1:1-12.4(a), for the purposes of this Motion, it was fully considered.

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 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.



February 19, 2026

DATE

MATTHEW G. MILLER, ALJ

Date Received at Agency

February 19, 2026

Date Mailed to Parties:

February 19, 2026

sej

APPENDIX

EXHIBITS

For petitioner:

- P-A Curriculum vitae of Dawn M. Raboy, M.S.W., L.C.S.W.
- P-B Functional Behavior Assessment & Behavior Intervention Plan (October 2, 2026)
- P-C Occupational Therapy Evaluation (October 24, 2025)
- P-D Psychoeducational Assessment (October 23, 2025)
- P-E Speech-Language Assessment (October 24, 2025)
- P-F Proposed Individualized Education Plan (December 15, 2025)
- P-G Email exchange between G.B. and District (January 5–6, 2026)
- P-H Email from District to G.B. (January 6, 2026)
- P-I DOE IEE Guidance (July 7, 2015)
- P-J Certification of Dawn Raboy (February 1, 2026)

For respondents:

None