



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 02232-26

AGENCY DKT. NO. 2026-40397

J.K. ON BEHALF OF C.K.,

Petitioner,

v.

WEST DEPTFORD TOWNSHIP

BOARD OF EDUCATION,

Respondent.

Danielle Antoine, Esq., for petitioners (South Jersey Legal Services, attorney)

William C. Morlok, Esq., for respondent (Gorman, D'Anella, and Morlok, LLC,
attorneys)

Record Closed: July 15, 2026

Decided: August 5, 2026

BEFORE **SUSAN MCCABE**, ALJ:

STATEMENT OF THE CASE

Respondent, West Deptford Board of Education (West Deptford), failed to provide petitioner C.K. with a one-to-one adult aide as a reasonable accommodation to attend its school-based childcare program. Did West Deptford violate anti-discrimination laws? Yes. School districts violate anti-discrimination laws when they deny disabled students

reasonable accommodations necessary to access school-based childcare programs. K.N. and J.N. ex rel. J.N. v. Gloucester City Bd. of Educ., 379 F. Supp. 3d 334, 345–54 (D.N.J. 2019).

PROCEDURAL HISTORY

On October 24, 2025, petitioner J.K., the mother of C.K., filed a request for mediation with the New Jersey Department of Education, Office of Special Education (OSE). On December 2, 2025, the parties participated in mediation. Thereafter, the parties agreed that the mediation was unsuccessful, and on February 5, 2026, J.K. converted her request for mediation to a request for due process hearing.

On February 12, 2026, the OSE transmitted the request for due process hearing to the Office of Administrative Law under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, and the Special Education Program, N.J.A.C. 1:6A-1.1 to -18.4.

On March 16, 2026, West Deptford filed a motion for summary decision. On April 13, 2026, I denied the motion and moved forward with the hearing.

On April 27, 2026, I held the hearing. At the close of the hearing the parties requested written summations, and West Deptford requested transcripts before submitting its written summation. On June 25, 2026, the parties received the transcripts.

On July 15, 2026, the parties submitted their written summations and I closed the record.

FINDINGS OF FACT

Based on the testimony the parties provided and my assessment of their credibility, together with the documents the parties submitted and my assessment of their sufficiency, I **FIND** the following as **FACT**:

C.K. is a six-year-old student with a disability who resides in West Deptford Township and lives within the West Deptford School District. She receives special education services at Bankbridge Elementary School, an out-of-district placement for which the West Deptford Board of Education pays tuition and provides transportation. As memorialized in C.K.'s Individualized Education Program (IEP), she requires a full-time one-to-one dedicated adult support to access the curriculum throughout the school day and during transport to and from school. The West Deptford School District is the recipient of federal funding and received federal funding for the 2025–2026 academic year.

The Young Eagles Child Care Program is an extended-day childcare program licensed by the New Jersey Department of Children and Families, Office of Licensing. The childcare program is operated by the West Deptford School District and is housed in the district's three elementary schools. It is funded through parent-paid tuition and State-subsidized funding and is available to township residents in West Deptford who have grade-school children. Before-care begins at 6:45 a.m. and continues until school begins, and after-care begins when school ends and continues until 6:30 p.m. The Young Eagles Child Care Program's written program states that it must be "ADA" compliant.

J.K. is a single mother and educator in a neighboring school district and commutes twenty-five minutes to work and twenty-five minutes from work daily. Because J.K.'s work hours conflict with her daughter's school hours, J.K. requires reliable before-care and after-care.

C.K.'s out-of-district placement school dismisses its students earlier than the West Deptford in-district schools. As a result, C.K. returns to the applicable in-district school approximately thirty minutes before the end of the in-district school day and before the start of after-care at the Young Eagles Child Care Program.

On August 20, 2025, J.K. applied for the Young Eagles Child Care Program to secure childcare for C.K. On the application, J.K. listed C.K.'s special needs and the

need for a one-to-one aide. J.K. never received a formal response from the childcare program, nor was she offered an accommodation plan.

CONCLUSIONS OF LAW

IDEA

The Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1401 to 1482, and New Jersey State statutes, N.J.S.A. 18A:46-1 to -55, ensure that children with disabilities have access to a free appropriate public education designed to meet their unique needs. 20 U.S.C. § 1400(d)(1)(A). A school district must provide special education and related services to eligible children under their IEP. 34 C.F.R. § 300.323(c)(2) (2026); 34 C.F.R. § 300.34(a) (2026).

Under the IDEA, “related services” include transportation when a student requires such assistance to benefit from special education. 20 U.S.C. § 1401(26); Irving Indep. Sch. Dist. v. Tatro, 468 U.S. 883, 894 (1984).

In this case, West Deptford found C.K. eligible for special education and related services, issued an IEP, and provided her with an out-of-district placement capable of accommodating her needs with full-time one-to-one adult support.

As a result, C.K. is entitled to all protections and services provided under the IDEA.

Section 504 and the ADA

Both Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794(a) (Section 504), and Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132 (ADA), protect individuals with disabilities from discrimination. Section 504 prohibits discrimination in any program receiving federal financial assistance, 29 U.S.C. § 794, while the ADA prohibits discrimination in all areas of public life, including schools and public spaces. 42 U.S.C. §§ 12101 et seq. Both laws apply to public before-school and after-school childcare programs. K.N., 379 F. Supp. 3d at 345–54. Additionally, New Jersey law

requires licensed childcare programs to comply with the ADA. N.J.S.A. 10:5-5(l); N.J.A.C. 3A:52-1.1.

Students who qualify for an IEP under the IDEA automatically receive protection under the IDEA as well as under Section 504 and the ADA. While the IDEA guarantees tailored educational services, Section 504 and the ADA promise non-discriminatory access to public institutions. Fry v. Napoleon Cmty. Schs., 580 U.S. 154 (2017). This framework allows IDEA-eligible students to pursue separate disability discrimination claims without having to meet a heightened standard of proof such as “bad faith or gross misjudgment.” A.J.T. v. Osseo Area Schs., 605 U.S. 335 (2025).

Under both Section 504 and the ADA, a request for an accommodation must be “reasonable.” Berardelli v. Allied Servs. Inst. of Rehab. Med., 900 F.3d 104, 123 (3d Cir. 2018). To determine whether an accommodation is reasonable, the individual circumstances must be considered to ascertain if the requested accommodations would afford the disabled individual meaningful access to the program. K.N., 379 F. Supp. 3d at 350 (citing Mark H. v. Hamamoto, 620 F.3d 1090, 1098 (9th Cir. 2010)).

Since C.K. qualifies for an IEP and seeks to attend a public childcare program in a public school, Section 504 and the ADA guarantee her protections at that program as well.

Exclusion Based on Disability Test

To determine whether a student is unlawfully excluded from a childcare program under Section 504 and the ADA, the student must demonstrate (1) a disability, (2) qualification for the school program; and (3) discrimination because of a disability. Chambers ex rel. Chambers v. Sch. Dist. of Phila., 587 F.3d 176, 189 (3d Cir. 2009); K.N., 379 F. Supp. 3d at 345–54.

The student, however, need not prove bad faith or gross misjudgment. If a school policy causes an exclusionary effect, that effect alone establishes liability. A.J.T., 605 U.S. at 345. Once the student demonstrates these three things, the burden shifts to the

school to prove that the requested accommodation would fundamentally alter the program or cause undue financial and administrative burdens. 28 C.F.R. § 35.130(b)(7) (2026); 28 C.F.R. § 36.104 (2026).

In this case, C.K. has a disability and qualifies for the Young Eagles Child Care Program based on her residency. However, West Deptford failed to process the application or offer an accommodation plan. As a result, West Deptford constructively excluded C.K. from the program because of her disability.

In response, West Deptford argues that it offered C.K. “equal access” because C.K. applied under the exact same operational rules as a general education student. However, this does not obviate the fact that West Deptford failed to process the application or offer an accommodation plan, which resulted in a failure to provide meaningful access, not just “equal” access. Alexander v. Choate, 469 U.S. 287 (1985).

In addition, J.K.’s request for the one-to-one aide before the Young Eagles Child Care after-school start time and during C.K.’s attendance at the program for before-care and after-care was reasonable. It does not require a fundamental alteration of the childcare program or cause undue financial and administrative burdens.

Accordingly, I **CONCLUDE** that West Deptford discriminated against C.K. based on her disability, and I further **CONCLUDE** that West Deptford must accommodate C.K. by providing the necessary one-to-one adult supervision to bridge the scheduling gap and during her attendance in the Young Eagles Child Care Program to facilitate her safe participation.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** West Deptford to place C.K. in the Young Eagles Child Care Program and provide C.K. with the accommodations necessary for her safe and equal participation in that program.

This decision is final under 20 U.S.C.A. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2026) 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.A. § 1415(i)(2); 34 C.F.R. § 300.516 (2026). If the parent or adult student believes that this decision is not being fully implemented with respect to program or services, this concern must be communicated in writing to the Director, Office of Special Education Programs.

August 5, 2026

DATE



SUSAN MCCABE, ALJ

Date Received at Agency:

Date Mailed to Parties:

SM/dc

APPENDIX

Witnesses

For petitioners:

J.K.

For respondent:

Thomas N. Tucci

Exhibits

Joint:

- J-1 Respondent's responses to petitioner's discovery requests dated March 16, 2026
- J-2 Certification of Thomas N. Tucci dated March 16, 2026
- J-3 Not in evidence
- J-4 Not in evidence
- J-5 Not in evidence
- J-6 Not in evidence
- J-7 Not in evidence
- J-8 Not in evidence
- J-9 Young Eagles Child Care Program dated 2025–2026
- J-10 Not in evidence
- J-11 Not in evidence
- J-12 Young Eagles Program flyer dated Summer 2025
- J-13 Not in evidence
- J-14 Not in evidence
- J-15 Not in evidence
- J-16 Young Eagles Child Care Program, Medical Declaration Statement for School-AgeChild Care, dated August 20, 2025

For petitioners:

None

For respondent:

None