



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

AMENDED

FINAL DECISION

OAL DKT. NO. EDS 04978-26

AGENCY DKT. NO. 2026-40692

DUNELLEN BORO BOARD OF EDUCATION,

Petitioner,

v.

N.L. ON BEHALF OF E.M.,

Respondent.

Robin S. Ballard, Esq., for petitioner (Schenck, Price, Smith & King, LLP,
attorneys)

N.L., respondent, pro se

Record Closed: July 17, 2026

Decided: August 12, 2026

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

STATEMENT OF THE CASE

In March 2026, respondent N.L. requested an independent educational evaluation (IEE) of her child E.M. at district expense. No evidence exists that petitioner Dunellen Boro Board of Education ("District") conducted its previous evaluations in February and March 2026 improperly. Are respondents N.L. and E.M. entitled to an IEE at no cost?

No. Upon completion of an initial evaluation or reevaluation, an IEE shall be provided at no cost to parents unless the district board of education initiates a due process hearing to show that its evaluation is appropriate. N.J.A.C. 6A:14-2.5(c)(1).

PROCEDURAL HISTORY

On March 24, 2026, respondent N.L. sent a letter to Dunellen to request that the District provide her child, E.M., with an IEE at public expense. Dunellen denied the request. Dunellen had already conducted a psychological evaluation, a speech and language evaluation, an educational evaluation, and an occupational therapy evaluation in February and March 2026.

On March 27, 2026, Dunellen initiated a due process hearing under N.J.A.C. 6A:14-2.5(c)(1) to show that its evaluations were appropriate.

On that same date, the Office of Special Education transmitted the case to the Office of Administrative Law (OAL) 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 April 1, 2026, I held an initial prehearing telephone conference to discuss the case and schedule a hearing date. A hearing was scheduled for March 27, 2026. At respondent's request the hearing was rescheduled for June 12, 2026, and held on that date. The record remained open, as the parties requested until July 17, 2026, to submit post-hearing briefs. The record closed on July 17, 2026.

FACTUAL DISCUSSION AND FINDINGS

The following is undisputed, and I, therefore, **FIND** the following as **FACT**:

1. E.M. was born on January 13, 2016, and resides in the Dunellen Public School District.

2. E.M. is enrolled in fourth grade at John P. Faber Elementary School.

3. Johanna Burkhardt, OTD, MS, OTR/L, conducted an occupational therapy assessment of E.M. on February 5 and 26, 2026, which consisted of clinical observation and administration of the following standardized assessments: Beery-Buktenica Developmental Test of Visual-Motor Integration — Sixth Edition (Beery VMI-6), Bruininks Oseretsky Test of Motor Proficiency, 3rd Edition (BOT-3) — fine motor section, and Detailed Assessment of Speed of Handwriting, Second Edition (DASH-2). J-2.

4. The psychological evaluation of E.M. was performed by Nicole Segura, M.A., NCSP, on February 27, 2026, and consisted of a record review, a classroom observation, a testing observation, a student interview, and administration of the Weschler Intelligence Scale for Children, Fifth Edition (WISC-V), and Behavior Assessment System for Children, Third Edition (BASC-3) — teacher and parent rating scales. J-3.

5. Linda D’Elia-Repetz, M.Ed., LDT-C, conducted an educational evaluation of E.M. on March 2, 2026, which consisted of a review of records, testing observation, and administration of select subtests of the Woodcock-Johnson, Fourth Edition (WJ-IV) — Tests of Achievement and Test of Oral Language. J-4.

6. A speech and language evaluation of E.M. was completed on February 6 and 11, and March 4, 2026, by Carly Padula, M.A., CCC-SLP, consisting of a review of records, a behavioral/clinical observation, an informal oral-peripheral assessment, voice and fluency observations, and the following standardized assessments: Goldman-Fristoe Test of Articulation, Third Edition (GFTA-3), Test of Auditory Processing Skills — Fourth Edition (TAPS-4), and Oral and Written Language Scales — Second Edition (OWLS-II). J-5.

7. Shainna Manolo, MSW, prepared an updated social history of E.M. on March 9, 2026, based upon an interview with N.L. J-6.

8. The child study team (CST) evaluation of E.M. included an observation of him in other than a testing situation.

9. The CST evaluation of E.M. included standardized testing appropriate for students of E.M.'s age and grade.

10. Finally, the CST evaluation of E.M. provided data from which the team determined, at a meeting held on March 24, 2026: (1) that he continued to meet criteria to be classified as eligible for special education and related services; and (2) to assist in developing his educational programming. J-7.

Testimony

For petitioner

Dr. Tarah Santaniello is the District's director of Special Services, with fifteen years of experience in special education. She has participated in hundreds of evaluation planning meetings and reevaluations of special education students. She testified as an expert in developing evaluation plans and CST evaluations of students.

Dr. Santaniello stated that the purpose of a reevaluation is to determine whether a student continues to be eligible for special education and related services. As stated, during the reevaluation process Dunellen looks at a student's areas of concern, areas of deficit, and strengths. The CST elicits feedback from parents and teachers and based on all of that selects assessments best suited to determine whether a student continues to meet the eligibility categories set forth in the New Jersey Administrative Code.

Dr. Santaniello has been familiar with E.M. since he first transferred into the District in or about April 2023, at which time he was already classified as eligible for special education and related services. Based on her familiarity with E.M. and her expertise in CST evaluations, Dr. Santaniello testified that in her expert opinion the scope of the CST's reevaluation of E.M. was appropriate and comprehensively assessed E.M. in his areas of

suspected disability. Specifically, Dr. Santaniello explained that at the time of the reevaluations he was classified under the category of “specific learning disability” and was receiving occupational therapy and speech-language therapy; thus, the CST determined that the assessments that would form the basis of the reevaluation must provide an understanding of E.M.’s psychological makeup and educational achievement, as well as provide updates on his occupational therapy and speech-language needs. Due to the time that had passed since a social history of E.M. was completed, the CST appropriately determined that an update was warranted during this reevaluation.

Dr. Santaniello provided testimony as to the appropriateness of each evaluation that was part of the reevaluation, including testimony that each evaluator was appropriately credentialed to conduct the evaluation in question, and that each evaluator selected age- and grade-appropriate standardized assessments.

Dr. Santaniello addressed respondent’s claims with respect to E.M.’s IQ. Specifically, she noted that E.M.’s IQ score at the time he transferred into the District was also in the 70s, similar to where it is now. Explaining that although one might find the drop in E.M.’s IQ score from the previous administration of the WISC-V to be concerning, it was merely based on a change in the way the readopted WISC-V uses individual subtest scores to calculate one of the composite scores from which a child’s full-scale IQ is derived. Specifically, on the WISC-V, the only specific subtest used to calculate the processing speed is coding, and E.M. struggled with this subtest. Because coding involves visual motor integration, a weakness of E.M.’s that is addressed in his work with the District’s occupational therapist, it was not surprising that he struggled with this subtest.

Once the evaluations were completed, the individualized education program (IEP) team, including N.L., convened on or about March 24, 2026, to review the results of the reevaluation. Prior to the meeting, N.L. provided the District with a letter from a psychiatrist confirming that E.M. had been diagnosed with attention deficit hyperactivity disorder (ADHD). Based on its consideration of this new diagnosis, along with the extensive, updated information about E.M.’s academic weaknesses and learning profile that was gleaned from the reevaluation, the team determined that E.M. should be

classified under the category of “other health impairment” (OHI) going forward. Dr. Santaniello explained in her testimony that a common thread across all of the evaluations was E.M.’s delayed processing and, taking that into account along with his ADHD diagnosis, the CST concluded that the OHI classification best reflected his educational needs. Accordingly, in Dr. Santaniello’s professional and expert opinion, the reevaluation provided information from which the IEP team could determine E.M.’s continued eligibility for special education and related services and develop his educational program. The IEP based on the reevaluation results was developed on or about March 24, 2026. J-7.

Dr. Santaniello further testified that additional evaluations would not be useful to the District for the purpose of either determining E.M.’s special education eligibility or developing E.M.’s special education programming, because following its reevaluation, the District is well aware of E.M.’s strengths and weaknesses, as well as N.L.’s concerns, and does not require any additional information to develop an appropriate program for E.M.

For respondent

N.L. attempted, in both her cross-examination of Dr. Santaniello and her direct testimony, to establish two lines of argument.

First, N.L. argued that the District’s reevaluation of E.M. was not appropriate because the evaluation reports did not contain specific written recommendations. Dr. Santaniello explained repeatedly under cross-examination, however, that an evaluation report does not need to contain written recommendations, as it is focused on identifying a child’s strengths and weaknesses and determining eligibility for special education and related services, through the administration of standardized assessments, observations, and/or other informal measures. Based on the evaluation data, the IEP team, including N.L., discusses specific recommendations during the meeting at which an IEP is developed.

N.L.'s second argument was that the CST's evaluations were invalid because E.M. was not provided with testing accommodations during the standardized assessments administered in the reevaluation. In response to N.L.'s line of questioning in this regard, Dr. Santaniello explained that it is standard practice across school districts nationwide that accommodations are not provided during standardized assessments, because doing so would undermine the reliability and validity of the assessments.

Finally, N.L. claimed in her direct testimony that the March 24, 2026, IEP developed for E.M. did not contain "a single goal" based on the reevaluation data. She admitted under cross-examination that the IEP did contain specific occupational therapy goals related to graphomotor skills; reading comprehension goals to address E.M.'s difficulties with decoding; goals related to writing skills; mathematics goals to address math-related difficulties identified in the reevaluation; and specific speech goals related to receptive and expressive language.

Additional Findings

As the factfinder, I had the ability to observe the demeanor, tone, and physical actions of petitioner's witness during her testimony concerning her understanding of the evaluations and the procedures employed by Dunellen. She testified clearly and convincingly about her observations and understanding of the evaluations conducted. She also testified professionally and without equivocation concerning the requirements under the Administrative Code to conduct a thorough evaluation and balance with the needs of the student. Her testimony also seemed to align with evidence presented. I find her testimony to be credible.

As the fact finder, I had the ability to observe the demeanor, tone, and physical actions of respondent during her testimony and throughout the proceeding. She did not offer documentary or any expert testimony to challenge Dunellen's evaluations. Given the absence of evidence supporting respondent's assertions, I cannot afford her testimony equal weight to that of respondent's witness.

Having considered the testimony and documentary evidence and the credibility of the witnesses, I **FIND** as **FACT** that the reevaluation completed of E.M. provided information from which the IEP team could determine his continued eligibility for special education and related services and develop his educational program going forward.

CONCLUSIONS OF LAW

As part of the evaluation process in special education, a school is required to use a variety of assessment tools and strategies to gather relevant information about a child, including information provided by the parent that may assist in determining if the child has a disability and information related to enabling a student to be involved in and progress in the general education curriculum. N.J.A.C. 6A:14-2.5(a). The process also requires the district board of education to use technically sound instruments that assess cognitive and behavioral factors, as well as physical or developmental factors. N.J.A.C. 6A:14-2.5(a)(3). The evaluation needs to be sufficiently comprehensive to identify the student's special education and related services needs. N.J.A.C. 6A:14-2.5(b)(7).

Once a school district has completed an initial evaluation, a parent can request an IEE at public expense if there is disagreement with the initial evaluation. N.J.A.C. 6A:14-2.5(c). However, the parent must state the issue of concern or disagreement with the initial evaluation and specify the assessment sought. N.J.A.C. 6A:14-2.5(c). Upon receipt of a parent's request for an IEE, the school district shall either provide the IEE or request a due process hearing within twenty calendar days after receiving the parent's IEE request. N.J.A.C. 6A:14-2.5(c)(1)(i)–(ii). 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).

In this case, on March 24, 2026, the parent requested an IEE at the school's expense. The assessments requested were a neuropsychological evaluation, an educational evaluation, a speech and language evaluation, an assistive technology evaluation, a functional auditory/access evaluation, and an occupational therapy evaluation. J-8.

Following receipt of N.L.'s request for an IEE, Dunellen timely requested a due process hearing to demonstrate that its reevaluation of E.M. was appropriate and to deny respondent's request for an independent evaluation at public expense.

The CST conducted an appropriate reevaluation of E.M. As part of its reevaluation of E.M., Dunellen's evaluators conducted classroom observations, interviewed E.M., obtained input from his classroom teacher, conducted appropriate standardized testing, and reviewed his student records. Dr. Santaniello testified to the appropriateness of each evaluation that was part of the CST reevaluation, including testifying that each evaluator was appropriately credentialed to conduct the evaluation in question and that each evaluator administered age- and grade-appropriate standardized assessments. In Dr. Santaniello's professional and expert opinion, the reevaluation completed of E.M. provided information from which the IEP team could determine his continued eligibility for special education and related services and develop his educational program going forward. Dr. Santaniello further opined that additional evaluations would not be useful to Dunellen for the purpose of either determining E.M.'s special education eligibility or developing his special education programming. Following its reevaluation, Dunellen was aware of E.M.'s strengths and weaknesses, as well as N.L.'s concerns, and did not require any additional information to develop an appropriate program for E.M.

Respondent has provided no competent evidence to support the claim that the initial evaluations conducted by Dunellen were inappropriate. I **CONCLUDE** that the evaluations conducted and considered by Dunellen were comprehensive and appropriate as required by N.J.A.C. 6A:14-2.5(b)(7) and (c)(1). I **FURTHER CONCLUDE** that no additional assessments or evaluations are necessary or warranted under N.J.A.C. 6A:14-2.5(c)(1).

ORDER

Based upon the foregoing, it is hereby **ORDERED** that Dunellen's petition to deny N.L.'s request for additional independent educational evaluations at District expense is **GRANTED** and that this case is **DISMISSED**.

This decision is final under 20 U.S.C. § 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. § 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 should be communicated in writing to the Director, Office of Special Education.

August 12, 2026

DATE


MICHAEL R. STANZIONE, ALJ

Date Received at Agency:

Date E-Mailed to Parties:

MRS/cb

APPENDIX

Witnesses

For petitioner

N.L.

For respondent

Dr. Tarah Santaniello

Exhibits

Joint

- J-1 Mediation Agreement, dated February 2, 2026
- J-2 Occupational Therapy Re-evaluation of E.M. performed by Johanna Burkhardt, OTD, MS, OTR/L, on February 25 and 26, 2026
- J-3 Psychological Re-evaluation of E.M. completed by Nicole Segura, M.A., February 27, 2026
- J-4 Educational Evaluation of E.M. conducted by Linda D'Elia-Repetz, M.Ed., LDT-C, on March 2, 2026
- J-5 Report from Speech and Language Re-evaluation of E.M. prepared by Carly Padula, M.A., CCC-SLP, dated March 9, 2026
- J-6 Social History Evaluation of E.M. prepared by Shainna Manolo, MSW, dated March 9, 2026
- J-7 Individualized Education Program (IEP) for E.M., dated March 24, 2026
- J-8 Parental request for Independent Educational Evaluation, dated March 24, 2026