



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 05397-26

AGENCY DKT NO. 2026-40731

**F.O. AND S.O. ON BEHALF
OF L.O.,**

Petitioner,

v.

**CLIFTON CITY BOARD OF
EDUCATION,**

Respondent.

F.O. and S.O., petitioners, pro se

Jessica Kleen, Esq., for respondent (Kleen Education Law, LLC, attorneys)

Record Closed: June 11, 2026

Decided: July 14, 2026

BEFORE **PATRICE E. HOBBS**, ALJ:

STATEMENT OF THE CASE

On April 23, 2026, the child study team (CST) for the Clifton City Board of Education (the District) developed an Individualized Education Program (IEP) in the least restrictive environment (LRE) for L.O., a student who qualifies for special education and related services. Must the due process petition be dismissed? Yes, the IEP crafted by

the District is tailored to provide L.O. with significant learning and meaningful benefit considering her individual needs in the LRE under 20 U.S.C. § 1412(a).

PROCEDURAL HISTORY

On April 2, 2026, petitioners filed an emergent petition for due process with the Office of Special Education Programs (OSEP) under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1400 et seq., §504 of the Rehabilitation Act (§504), 42 U.S.C. §12131 et seq. (the ADA) and the New Jersey Law Against Discrimination (NJLAD). On April 7, 2026, the case was transmitted to the Office of Administrative Law (OAL) under 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 -18.5. The case was scheduled before the Honorable Matthew G. Miller. Prior to the scheduled hearing date, petitioners withdrew the emergent petition for due process, agreeing that the proper placement for L.O. was home instruction. On May 1, 2026, petitioners' underlying petition for due process was transmitted to the OAL for a hearing. On May 8, 2026, I held a prehearing conference and scheduled the case for hearing. On that date, petitioners filed a second request for emergent relief, requesting that the District provide an interim alternative education setting (IAES) that was not home instruction. On May 18, 2026, the District filed its answer to the request for emergent relief. On that date, I held a conference and scheduled an oral argument. On May 22, 2026, petitioners once again withdrew their request for emergent relief. On June 9, 2026, and June 11, 2026, I held a hearing and closed the record.

FINDINGS OF FACT

Based upon 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 **FACTS**:

L.O. is a twelve-year-old student who qualifies for special education and related services and is classified under the Emotional Regulation Impairment (ERI) category.

L.O. has a diagnosis of adjustment disorder with mixed anxiety, depressed mood and oppositional defiant disorder. L.O. also has Type I Diabetes.

September 2024–2025

For the 2024–2025 school year, L.O. should have been enrolled at the Christopher Columbus Middle School (CCMS) because F.O. and S.O. believed that Woodrow Wilson Middle School (WWMS) was not appropriate for their other children and wanted a different school for L.O. (R-5, at BOE 331.) However, F.O., S.O. and L.O. requested that L.O. attend WWMS. Because of their request and their assurance that L.O. would demonstrate that WWMS was the appropriate placement for L.O., she began the 2024–2025 school year at WWMS.

Between September 2024 and January 2025, L.O. had accumulated a significant number of disciplinary infractions, which included abusive and foul language directed at staff and peers, defiance of authority, and ongoing challenges with peers. (R-5.) On February 19, 2025, L.O. was transferred to the CCMS. A transition plan was discussed with F.O., S.O. and L.O.

Referral to the Child Study Team

In March 2025, L.O. was referred by the child study team (CST) for evaluations. On March 26, 2025, she was evaluated by Natalie Khatchadourian, MSW, school social worker, and case manager for the CCMS. Khatchadourian interviewed F.O., S.O. and L.O. (R-1.) F.O. and S.O. stated that the only change affecting L.O. is her transfer from WWMS to CCMS. The transfer has had the largest impact on L.O.'s depression because she left behind friends with whom she grew up, and she no longer communicates with them. (R-1, at BOE 299.) L.O.'s academic performance has been negatively affected because of difficulties she has with some teachers and homework completion. L.O. has also been suspended multiple times during the school year and is disconnected from her peers at her previous school.

On April 7, 2025, L.O. was evaluated by Jason Fobes, a school psychologist with CCMS. Fobes administered the Wechsler Intelligence Scale for Children, Fifth Edition (WISC-V). (R-2.) L.O. scored in the low average range in verbal comprehension and visual-spatial. She scored in the average range in processing speed. She scored in the very low average range in fluid reasoning and in the very high range in working memory. Her full-scale IQ was 92, which was average.

On April 9, 2025, L.O. was evaluated by Mingnon Morton, learning disabilities teacher consultant (LDTC). Morton administered the Woodcock-Johnson IV (WJ-IV). (R-3.) She scored in the average range in letter word identification, applied problems, spelling, passage comprehension, calculation, writing samples, math facts fluency and sentence writing fluency. She scored in the low average range in sentence reading fluency and in the high average range in math facts fluency.

After L.O. was transferred to CCMS, she failed to adhere to the school district dress code by wearing her outerwear in class. (R-5, at BOE 331). L.O. was asked to remove her coat multiple times and refused. She was then provided with a CCMS jacket at no cost, and she refused to remove her outerwear and wear the CCMS jacket. She used foul and abusive language toward staff members and repeatedly pounded on the classroom door. De-escalation techniques were employed but were unsuccessful, and a school safety alert was issued. A school safety alert required that all staff and students shelter in place, away from windows and doors, and remain that way until the alert is lifted. The school remained on safety alert for almost one hour. The minimum suspension that should have been imposed was six days; however, L.O. was only suspended for two days.

On May 19, 2025, L.O. was observed walking to Room 201 to confront another student. (R-5.) The security specialist Litchfield issued a school safety alert. Litchfield called for administrative support. Vice Principal Turi came to assist. L.O. was visibly upset and verbally aggressive. L.O. was pacing, cursing, and yelling at Turi. L.O. screamed: "Get your bitch ass out of my face," "you fat ass fuck," "get my fucking phone," "I don't know who you think you are fucking talking to," and "ain't nobody talking to you bitch." (R-5, at BOE 330.) L.O. kicked her shoes off, paced the hallway, and continued

yelling vulgarities. Turi retrieved the phone for L.O. and requested that L.O. accompany her to the office. L.O. was not responsive to the de-escalation techniques, which prompted Turi to call the Clifton Police Department. L.O. continued her vulgar and foul language, stating “I will light your bitch ass up,” “stupid bitch,” and “dirty ass ho.” L.O. was also physical with the police, attempting to push past them. Gaba, one of the administrators, called L.O.’s mother. S.O. yelled “motherfucker” into the phone and then hung up the phone. A second call was placed to S.O., who stated, “I will come when I have time.” S.O. also called for an ambulance for L.O., but when the ambulance arrived, S.O. declined treatment for L.O.

On May 30, 2025, the CST conducted a Manifestation Determination Meeting (MDM). (R-5.) The CST concluded that L.O.’s behavior on May 19, 2025, was not a manifestation of her disability, and L.O. was suspended for ten days.

On July 11, 2025, F.O. and S.O. consented to implement the IEP for L.O., which was effective from May 30, 2025, to May 29, 2026. (R-6.) The IEP placed L.O. at the WWMS because her IEP required that L.O. be placed in a self-contained ERI classroom, and those classrooms are only available at WWMS. Her IEP also included a Behavior Intervention Plan (BIP) and an Individual Health Plan (IHP). This IEP provided special education instruction in a self-contained ERI classroom, in language arts, math, social studies and science for fifty-five minutes each day. The IEP also provided a weekly thirty-minute counseling session and a weekly behaviorist consultation. Between October 15, 2025, and January 9, 2026 (R-7), L.O. had eighteen sessions at the CST office for behavior counseling. The sessions lasted between five and thirty minutes.

September 2025–2026

On September 10, 2025, Principal Andrew Jaeger contacted S.O. and informed her that L.O. was following another student, G.S., and as a result, L.O. would be escorted from class to class. (R-8.) Subsequently, a social and emotional learning plan across core subjects for ERI students was implemented for L.O. (R-9.)

On September 16, 2025, L.O. was asked to keep her phone in her pocket, and she refused. L.O. was disrespectful, and a security specialist was called to take her to the principal's office. L.O. refused to go with security and yelled foul and disrespectful language at the teacher. (P-3-1.)

On September 17, 2025, L.O. left her assigned area to approach G.S. L.O. was warned several times not to approach G.S. because L.O. and G.S. have had a cease and desist in place since 2023. This was the third violation of the cease and desist since the start of this school year. L.O. was suspended for two days. (Id.)

On September 30, 2025, L.O. requested to use the bathroom and was refused due to the current rules. L.O. then started texting on her phone. A security specialist was called to the classroom, and L.O. stated, "old bitch with wrinkles on her face, why don't you leave me the fuck alone." (Id.)

On October 3, 2025, a cease and desist was signed between L.O. and M.G. (Id.)

On October 9, 2025, L.O. threw her hall pass at a teacher. When confronted, L.O. laughed. (Id.)

On October 27, 2025, L.O. was disrespectful to one of the elderly teachers, calling him an "old man who needs a new hip." (Id.)

On October 28, 2025, L.O. was disrespectful to two teachers, using obscene, foul, and inappropriate language and using her cell phone despite repeated requests to put her cell phone away. She stated to her teacher, "nigga, what do you not fucking understand that I do not want to be walked around?" (Id.)

On November 14, 2025, L.O. was evaluated by Jamie Staron, a board-certified behavior analyst. (R-4.) Staron administered the functional analysis screening tool (FAST) to determine the reasons for L.O.'s behavior. The FAST is completed by L.O.'s current teachers and parents. The score on the FAST is scaled from 0–4, where a 4 is a highly likely function of the behavior, and 0 is an unlikely function of the behavior. L.O.

scored 4 in the attention-preferred category, a 3 in the escape from demands and sensory stimulation categories, and a 1 in the pain attenuation category. Staron also observed L.O. in her classroom. During these observations, L.O. spoke to her teachers using very foul, inappropriate language. L.O. was also observed texting on her phone and had to be redirected to her tasks eleven times. (R-4, at BOE 321.) During the second classroom observation, L.O. had two occasions of inappropriate peer interactions and inappropriate, foul language.

On December 3, 2025, L.O. was using her phone during physical education. The instructor requested that she put her phone away, but L.O. continued texting. After she was asked to put her phone away for a fifth time, L.O. ran out of the gym. She was escorted back to class by security. L.O. continued to use her phone, defying authority. (P-3-1.) On that same day, L.O. was disrespectful to another teacher, Nick Talavera.

On January 13, 2026, L.O. and S.T. were verbally abusive towards each other. S.O. was informed and reminded that L.O. and S. T. have a cease and desist in place. (R-8.)

On January 14, 2026, S.O. informed Jaeger that L.O. would not be in school because L.O. was seen in the emergency room and that she had completely shut down. (Id.) S.O. informed Jaeger that there was a case currently pending with the Department of Child Protection and Permanency (DCP&P).

On January 22, 2026, L.O. attended physical education class late and was using her phone with headphones. L.O. requested to use the bathroom in the hallway, and her teacher referred her to the bathroom in the gym or the nurse's office. L.O. refused, yelled "fuck it," and left the gym. (R-22.)

On February 2, 2026, L.O. was running from the security specialist in the hallway and was suspended for one day. (R-22.)

On February 6, 2026, WWMS issued a written notice (R-10) to F.O. and S.O. that on February 4, 2026, L.O. had tested positive for marijuana. L.O. was referred to a licensed facility for a professional assessment. L.O. was suspended for two days.

On February 19, 2026, S.O. reported that L.O. would be absent from school due to illness. L.O. came to school. Jaeger contacted F.O. and S.O. S.O. refused to pick her up, and F.O. stated someone would pick her up. L.O. ran from the building, and the District contacted the police. Because of police activity, the District implemented a school safety alert until L.O. was released to her parents. (R-22.)

Between September 4, 2025, and February 25, 2026, L.O. had fourteen behavioral issues that resulted in a formal incident report. Several times, the District instituted new strategies to assist L.O. with her emotional and behavioral issues. L.O. was suspended six times. (R-20.)

On February 25, 2026, L.O. violated the cease and desist that was in place between L.O. and S.T. L.O. posted several provoking videos on TikTok, threatening to fight with S.T. L.O. then engaged in a verbal altercation with S.T. and attempted to push through several staff members to attack S.T. L.O. ran away from Jaeger and other staff members five times. The school implemented a school safety alert for thirty-six minutes. (R-22.)

On February 27, 2026, the CST conducted an MDM (R-11) for the February 25, 2026, incident. The CST concluded that L.O.'s behavior was not a manifestation of her disability, and L.O. must be suspended for ten days. L.O. was placed on home instruction beginning on March 5, 2026.

On March 11, 2026, while L.O. was suspended, S.O. brought L.O. to school. (R-25.) The security specialist requested that S.O. accompany him to the office to discuss the issue with the office because L.O. had been suspended. While on the way to the office, S.O. left and returned to her vehicle. Jaeger went to the car and spoke with S.O., who had F.O. on the telephone. Jaeger informed F.O. and S.O. that L.O. was not permitted on campus. F.O. stated that his daughter was entitled to her education and

instructed S.O. to leave. L.O. was removed from her classroom and placed in Jaeger's office. Jaeger contacted S.O. by telephone, who stated she was at the doctor. Jaeger contacted F.O., who stated he was at work and could not leave but would pick her up when he could. L.O. remained in Jaeger's office with schoolwork. Neither parent came to pick her up, and L.O. was dismissed at the end of the school day.

On March 12, 2026, the CST issued a written notice (P-7-1) to F.O. and S.O. confirming the outcome of the February 27, 2026, MDM. The CST concluded that L.O.'s behavior was not a manifestation of her disability, and L.O. was suspended for ten days and was placed on home instruction beginning on March 5, 2026.

On March 18, 2026, the CST issued a written notice (R-12) to F.O. and S.O. confirming the outcome of the March 17, 2026, IEP meeting to discuss the current amendment to L.O.'s IEP for temporary home instruction. F.O. requested the meeting because L.O. did not receive the required home instruction. The CST team documented that Diana Minicello was assigned on February 26, 2026, that she contacted the parents on three separate occasions and received no response, and that when she did speak with F.O., he refused the services.

On March 30, 2026, the CST issued a written notice (R-13) to F.O. and S.O. confirming the outcome of the March 4, 2026, meeting to discuss the strategies to be implemented for L.O. because of her positive drug test. L.O. was referred to an intensive outpatient program, which F.O. and S.O. declined. Additionally, F.O. and S.O. requested that the counselors not be permitted to attend the meeting, and they were subsequently excluded.

On April 3, 2026, F.O. and S.O. submitted a letter by Anna Aluf, APN, (P-6-1) to the District that stated that L.O. must always have her phone with her because she uses it to monitor her diabetes.

A progress report dated April 22, 2026 (R-14) by Celine Almanzar, case manager, stated that L.O. had been absent and suspended for several days since February 3, 2026;

that she had made limited progress; and that home instruction was scheduled but had not yet begun despite efforts by the District.

Annual Review

The CST completed their annual review for L.O. and proposed an IEP (R-16), which would be effective from April 23, 2026, through April 22, 2027. This IEP continued to provide a self-contained ERI classroom with special education instruction in Language Arts, Math, Social Studies and Science for fifty-five minutes each, every day. The IEP also provided one weekly thirty-minute counseling session and one weekly fifty-five-minute behaviorist session. The IEP proposes the placement as home instruction.

On April 30, 2026, the CST sent a written notice (R-17) to F.O. and S.O. confirming the IEP Annual Review meeting and discussing the District's recommendations. L.O. is in a self-contained ERI class with three students (R-17, at BOE 52) and continues to perform below grade level because of her inconsistent engagement and responsiveness due to her emotional regulation, socio-emotional, and medical needs. The CST noted that L.O. has the cognitive ability and potential to complete grade-level work with consistent structure, prompting, emotional support, supervision and engagement strategies. (Id. at BOE 51.) The CST demonstrated that despite their interventions, L.O. continued to perform poorly, had major disciplinary issues, and could not progress in the District's self-contained ERI classroom. The District recommended placement in an out-of-district (OOD) school with more intensive therapeutic programs, increased counseling services, emotional regulation instruction, de-escalation supports, trauma-informed practices, sensory supports and individualized behavioral interventions. F.O. and S.O. did not consent to OOD. The IEP proposed placement as home instruction.

On May 5, 2026, the CST sent a written notice (R-18) to F.O. and S.O. confirming the continuation of the IEP Annual Review meeting. The CST reviewed L.O.'s present level of academic achievement and functional performance. The CST demonstrated that, despite interventions, L.O. performed below grade level. F.O. expressed concern for L.O.'s safety and alleged that the District had failed to implement the proper medical

procedures, especially during the February 25, 2026, incident. The District noted that L.O. did not consistently report to the clinic despite interventions. F.O. expressed his objections to home instruction being delivered at the library, which required parental supervision. The District reminded F.O. that a public setting was selected at his request and that the library was an approved setting for special education instruction. Jaeger presented the District's attempts to assist L.O. with her behavioral incidents. The District implemented measures such as a cease and desist, SmartPass, and a specialized hallway pass for L.O. Despite the District's efforts, L.O. continued to exhibit major behavioral offenses resulting in multiple school safety alerts issued for extended periods of time. The District reiterated its recommendation for OOD, and F.O., and S.O. again refused.

Bahia Abdrabboh, the special education supervisor at WWMS, stated that WWMS is a large school with over 1200 students. L.O. is in a self-contained ERI classroom that can have up to twelve students, but WWMS has only four students in that class. Despite being in the self-contained classroom with three other students, L.O. exhibited egregious, disrespectful, and abusive behavior towards the other students and towards the teachers that resulted in multiple suspensions. Abdrabboh stated that the CST considered the BIP, the IHP, and all testimony during their MDM. Abdrabboh concluded that L.O.'s multiple behavioral incidents were not because of her disability. Abdrabboh observed that L.O. made very little, if any, progress in the self-contained classroom. She attributed L.O.'s lack of progress to both her behaviors and multiple suspensions. Abdrabboh opined that L.O. is a very capable student who can do very well in all her subjects; however, WWMS is not the appropriate educational setting for L.O. WWMS is too large for L.O. and negatively impacts her ERI.

Christine Lucas, RN, is the supervisor of nursing at WWMS. As a nurse with over twenty years of teaching and practical experience, she has treated and assisted hundreds of diabetics. A person who suffers from low blood sugar levels (hypoglycemia) can be irritable or confused. A person who suffers from high blood sugar (hyperglycemia) can be nervous and exhibit signs of fatigue. She has reviewed all L.O.'s behavioral incidents and opined that none of those incidents were because of L.O.'s disability. The behaviors that L.O. exhibited can be caused by stress, anxiety or hormones. She developed the

IIHP for L.O., which required, among other things, that L.O. check in at the clinic before lunch and before gym. At the clinic, Lucas would assess her blood sugar levels and determine whether she needed to administer medication for L.O. L.O. did not visit the clinic every day as required. In fact, L.O.'s visits were very sporadic.

Jaeger, the principal at WWMS, stated that school safety alerts must be issued whenever a student is unaccounted for or if there is a potential threat to students or staff. L.O. was aggressive, pushing past staff members and he believed that the other student could have been in danger based on L.O.'s behavior. These alerts are issued for everyone's safety. Jaeger also stated that he is obligated to call the police when a student leaves the school without authorization.

Kevin Fink is a security specialist at WWMS. During the February 25, 2026, incident, L.O. did not exchange any physical punches, and no one was hurt during the incident. L.O. did show him her phone, but he did not know what it meant.

Almanzar stated that she has been working with L.O. for the last year. Almanzar stated that L.O. is a wonderful, bright young lady who has emotional regulation issues. With consistent therapy, behavioral and educational supports, L.O. can be successful. Almanzar stated that L.O. needs a fresh start in a new, different environment.

Bianca Swinsky is the Spanish teacher at WWMS. She stated that there have been occasions when L.O. was disruptive in her class, and she has had to redirect her and otherwise intervene to get L.O. to focus on school. L.O. has said unkind things to other students. However, when L.O. is not engaging in disruptive behavior, she is a good student.

F.O. stated that when L.O. was first diagnosed with diabetes, she was in denial. When L.O. finally accepted that she was diabetic and that her condition can be life threatening, she became obsessed with checking her glucose levels. F.O. stated that when L.O. is hyperglycemic, she acts out, becoming irritable and unaware of what she says or does. F.O. insists that all L.O.'s behavioral incidents were because she needed her cell phone to manage her diabetes, and when she cannot have access to her phone,

she panics because she fears she will die. He stated that they also have access to L.O.'s glucose readings and that they communicate with her regularly during the day on her cell phone. F.O. maintained that L.O.'s use of her phone during the school day is limited to monitoring her glucose levels. F.O. stated that L.O.'s physicians opined that home instruction negatively impacts L.O.

S.O. monitors L.O.'s blood sugar on her cellphone and communicates with L.O. many times during the day. Both parents have access to her digital blood sugar readings. S.O. maintains that she did not speak with Jaeger on February 19, 2026, and did not report L.O. sick that day. She stated that L.O. was told to leave the school and that she did not run away. S.O. stated that L.O. told her she was going to Dunkin' Donuts, which was near the school. S.O. stated that the police called her and told her to return to the school to pick up her daughter. S.O. maintained that she communicates many times during the day with L.O. to ensure she is attending to her diabetes appropriately.

L.O. stated that she needs her phone to monitor her diabetes. L.O. tearfully pleaded to remain at WWMS, stating that she does not want to go to a different school; this is the same school her siblings attended, and she wants to return to that school to be with her friends. L.O. did not deny any of the incidents.

CONCLUSIONS OF LAW

The IDEA requires New Jersey to effectively implement procedures that ensure that all children with disabilities residing in the State have available to them a free, appropriate public education (FAPE) consisting of special education and related services. The IDEA "emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living." 20 U.S.C. § 1400(d)(1)(A).

States are obligated to identify, classify, and provide FAPE to all children with disabilities between the ages of three and twenty-one. 20 U.S.C. § 1412; N.J.S.A. 18A:46-8; N.J.A.C. 6A:14-1.1. This responsibility rests with the local public school district. N.J.A.C. 6A:14-1.1(d). School districts have an affirmative and continuing obligation to

identify and evaluate students reasonably suspected of a disability under the IDEA and Section 504 of the Rehabilitation Act (Section 504 or 504). This responsibility is known as a district's "child find" obligation. See D.K. v. Abington Sch. Dist., 696 F. 3d. 233, 249 (3d. Cir. 2012), 20 U.S.C. § 1412(a)(3). Each district must develop written procedures to identify students within the location of the district who may have a disability due to "physical, sensory, emotional, communication, cognitive, or social difficulties." N.J.A.C. 6A:14-3.3(a). These procedures must include evaluation measures to determine a student's eligibility for special education and related services. N.J.A.C. 6A:14-3.3(a)(3)(iii).

The IDEA defines a child with a disability as an individual with intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities. 20 U.S.C. § 1401(3)(A).

An individual with a disability is provided with an IEP by the local public school district, and this IEP provides each eligible student with an IDEA-mandated FAPE. 20 U.S.C. § 1414(d)). The IEP spells out how a school will meet an individual disabled student's educational needs. Y.B. v. Howell Twp. Bd. of Educ., 4 F.4th 196, 198 (3d Cir. 2021). The IEP includes a statement of the child's present levels of academic achievement and functional performance, assesses the progress in the general education curriculum, and offers measurable annual goals that enable the child to make educational progress. 20 U.S.C. § 1414(d)(1)(A)(i)(I), (II)(aa), (IV).

The United States Supreme Court held that the IDEA "requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." Endrew F. v. Douglas Cnty. Sch. Dist. RE-1, 580 U.S. 386, 403 (2017). The Third Circuit determined that Endrew F.'s language "mirrors [its] longstanding formulation [that] the educational program 'must be reasonably calculated to enable the child to receive meaningful educational benefits in light of the student's intellectual potential and individual abilities.'" Dunn v. Downingtown Area Sch. Dist., 904 F.3d 248, 254 (3d Cir. 2018) (quoting Ridley Sch. Dist. v. M.R., 680 F.3d 260, 269

(3d Cir. 2012). In addressing the quantum of educational benefit required, the Third Circuit has made clear that more than a “trivial or de minimis educational benefit” is required, and the appropriate standard is whether the IEP provides for “significant learning” and confers “meaningful benefit” to the child. T.R. v. Kingwood Twp. Bd. of Educ., 205 F.3d 572, 577 (3d Cir. 2000); Ridgewood Bd. of Educ. v. N.E., 172 F.3d 238, 247 (3d Cir. 1999); Oberti v. Bd. of Educ. of Boro. of Clementon Sch. Dist., 995 F.2d 1204, 1213 (3d Cir. 1993); Polk v. Cent. Susquehanna Intermediate Unit 16, 853 F.2d 171, 180, 182–84 (3d Cir. 1988), cert. den. sub. nom., Cent. Columbia Sch. Dist. v. Polk, 488 U.S. 1030 (1989).

Case law recognizes that the IDEA guarantees “an ‘appropriate’ education, ‘not one that provides everything that might be thought desirable by loving parents.’” Walczak v. Florida Union Free Sch. Dist., 142 F.3d 119, 132 (2d Cir. 1998) (citation omitted). Indeed, “meaningful participation does not require deferral to parent choice.” S.K. ex rel. N.K. v. Parsippany-Troy Hills Bd. of Educ., 2008 U.S. Dist. LEXIS 80616, at **34–35 (D.N.J. Oct. 9, 2008) (citation omitted). Nor does the IDEA require that the District maximize a child’s potential or provide them the best education possible. Instead, the law requires a school district to provide a basic floor of opportunity. Carlisle Area Sch. v. Scott P., 62 F.3d 520, 533–34 (3d Cir. 1995). The District will have satisfied the requirements of law if it provides the student with “personalized instruction with sufficient support services” as are necessary “to permit [him] to benefit from the instruction.” G.B. v. Bridgewater-Raritan Reg’l Bd. of Educ., 2009 U.S. Dist. LEXIS 15671, *6 (D.N.J. Feb. 27, 2009) (citing Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley, 458 U.S. 176, 203 (1982)).

An IEP “turns on the unique circumstances of the child for whom it was created.” Endrew F., 580 U.S. at 404. It is usually “reasonably calculated to enable the child to achieve passing marks and advance from grade to grade.” Id. at 401 (quoting Rowley, 458 U.S. at 203–4). Parents are expected to be involved in their children’s educational services and to actively participate in their child’s IEP team meetings, including providing consent for services. 20 U.S.C. § 1414(d)(1)(B) and (a)(1)(D)(ii). However, parents “do not have a right to compel a school district to provide a specific program or employ specific methodology in educating a student.” E.E. v. Ridgefield Park Bd. of Educ., 2020 U.S.

Dist. LEXIS 102249, *8 (June 11, 2020) (citing Ridley Sch. Dist., 680 F.3d at 269, 278). Similarly, if a parent refuses special education and related services on behalf of a student, the district board of education may not be deemed to have denied the student a FAPE. N.J.A.C. 6A:14-2.3(c). Nevertheless, the IDEA neither requires nor compels parents to accept special education and related services for their children.

The appropriateness of an IEP must be determined as of the time it is made, and the reasonableness of the school district's proposed program should be judged only on the basis of the evidence known to the school district at the time at which the offer was made. D.S. v. Bayonne Bd. of Educ. 602 F.3d 553, 564–65 (3d Cir. 2010). When determining the appropriateness of any given IEP, a court's focus should be on the IEP actually offered by the board and not upon an IEP that it could have offered. Lascari v. Bd. of Educ. of Ramapo Indian Hills Reg'l High Sch. Dist., 116 N.J. 30, 47 (1989).

The IDEA further requires that disabled children be provided a FAPE in the least restrictive environment (LRE). 20 U.S.C. § 1412(a)(5). The District must, where possible, include children with disabilities with children who are not disabled based on the severity of the child's disability. 20 U.S.C. § 1412(a)(5)(A). The District can only remove the children with disabilities from the regular educational environment if they are not able to provide a FAPE in the LRE, even with the use of supplementary aids and services. Oberti v. Bd. of Educ., 995 F.2d 1204, 1214 (3d Cir. 1993).

The Third Circuit developed a two-part test for establishing LRE: (1) whether education in the regular classroom, with the use of supplementary aids and services, can be achieved satisfactorily, and, if not, (2) whether the school made efforts to include the child in school programs with nondisabled children whenever possible. Oberti, 995 F.2d at 1215.

To make this determination, courts must consider, among other factors: (1) the efforts the district made to accommodate the child in a regular classroom; (2) whether any regular-class benefits would be far outweighed by the benefits of special education; or (3) whether the student would be a disruptive force in the regular class. Id. at 1217, 1218.

Before reaching the two-part test, the child must be educated in the LRE that will provide a meaningful educational benefit. See T.R., 205 F.3d at 578. The “IDEA requires that disabled students be educated in the least restrictive appropriate educational environment.” Ridgewood Bd. of Educ. v. N.E., 172 F.3d 238, 249 (3d Cir. 1999). “If the educational environment is not appropriate, then there is no need to consider whether it is the least restrictive.” S.H. v. State-Operated Sch. Dist., 336 F.3d 260, 272 (3d Cir. 2003)

A student with a disability must have their IEP implemented through one-to-one instruction at home or in another appropriate setting when it can be documented that all other less restrictive environments are inappropriate. N.J.A.C. 6A:14-4.8(a). The District must provide prior written notification that they intend to provide home instruction, and this notification is in effect for a maximum of sixty (60) days. N.J.A.C. 6A:14-4.8(a)(1). The District must renew the notification, and each such renewal is for a maximum of sixty (60) days. N.J.A.C. 6A:14-4.8(a)(2).

The District bears the burden of proving that it offered a FAPE. N.J.S.A. 18A:46-1.1. It must be able to offer “a cogent and responsive explanation for [its] decisions that demonstrates that the IEP meets the requisite standard. Endrew F., 580 U.S. at 404. Further, the District must collaborate with parents (and vice versa) to design an appropriate IEP. 20 U.S.C. § 1414 (d)(1)(B); see also N.J.A.C. 6A:14-2.3; N.J.A.C. 6A:14-3.7(b). This process ensures that the IEP is not only fact-sensitive but also developed collaboratively with the expertise of school officials and the input from the child’s parents. Endrew F., 580 U.S. at 399–400.

A parent who believes that a school district has not provided their child with a FAPE as required under IDEA may request a due process hearing. Lascari, 116 N.J. 30, 36 (1989). The parents need only place the appropriateness of the IEP at issue, shifting the burden to the school district to prove that the IEP was indeed appropriate. While the contested case is being resolved, the student involved in the due process petition must remain in his or her current educational placement. 34 U.S.C. § 300.518(a).

The stay put provision of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1415(j), states that “during the pendency of any proceedings conducted pursuant to this section. . . the child shall remain in the then-current educational placement of the child.” The provision “functions, in essence, as an automatic preliminary injunction,” In Re Drinker v. Colonial Sch. Dist., 78 F.3d 859, 864 (3d Cir. 1996) (quoting Zvi D. v. Ambach, 694 F.2d 904, 906 (2d Cir. 1982)), requiring the District to maintain the status quo for the child while the IEP dispute remains unresolved. Ringwood Bd. of Educ. v. K.H.J., 469 F. Supp. 2d 267, 270–71 (D.N.J. 2006). Because the purpose of a stay put is to maintain the status quo while an underlying dispute is pending, a stay put without an underlying claim is not a valid cause of action. See C.F. and T.F. o/b/o J.F. v. Franklin Twp. Bd. of Educ., OAL Dkt. No. EDS 50-10 (2010) (“By definition then, there can be no viable, independent cause of action for ‘stay put’. . . [i]t is a derivative cause of action applicable only when the placement of a child is challenged.”)

There is no dispute that L.O. is a student who qualifies for special education and related services. There is also no dispute that L.O. has diabetes and must monitor her blood sugar on her cellular phone. The District attempted to fulfill the parents’ wishes by enrolling her at CCMS because of the parents’ prior experience with WWMS. At the parent’s urging and assurances from L.O., she was enrolled at WWMS. Within a few months of her enrollment, her behavior was oppositional, defiant and abusive. L.O.’s conduct at WWMS was egregious enough to warrant her transfer to CCMS. At CCMS, L.O. did not perform well educationally, and was referred to the CST. The CST concluded that she was a student with a disability who qualified for special education and related services. She was classified under the ERI category, and an IEP was implemented. This IEP returned L.O. to WWMS because it was the only school that could provide the services required by her IEP. Once at WWMS, L.O.’s behaviors escalated. She was suspended four times. She had several cease and desist orders in place. The school was placed on multiple school safety alerts for extended periods. During her suspensions, she was provided with home instruction, and the District had difficulty administering the home instruction because her parents and L.O. refused to cooperate.

The parents argue that L.O.’s behaviors stem solely from her diabetic condition, that when her blood sugar is anything but normal, she will be defiant. The parents also

argue that L.O. monitors her diabetes on her cell phone, and she must always have her phone with her. No evidence or testimony was presented to support their claims. To the contrary, by their own admissions, F.O. and S.O. demonstrated that L.O.'s behaviors are not caused by her diabetes. F.O. and S.O. stated that they monitor her blood sugar on their devices as well. At no time during any of L.O.'s behavioral incidents, did either F.O. or S.O. request medical attention for L.O. L.O. never once asked for food or medicine or to go to the nurses' office because of her condition.

The parents also argue that the District does not do enough to accommodate L.O.'s diabetic condition and instead is punishing her for being diabetic. The District has proven that untrue. The District demonstrated that they have considered her disabilities in their MDMs, and the CST team concluded that her behavior did not result from her disability. In fact, L.O.'s defiant behavior was not based solely on access to her phone. L.O. not only repeatedly defied her teachers, but she was also verbally abusive, used foul language, was aggressive toward staff members, including Jaeger, pushed staff members, and threatened another student. These incidents were unrelated to access to her telephone. Despite the use of multiple de-escalation attempts, L.O. could not be assuaged. L.O. was simply rude, belligerent, abusive, and disrespectful. Even her parents were defiant and refused to come to WWMS when called by Jaeger. They never requested medical attention for L.O. They simply refused to return to the school. Notably, on March 11, 2026, when L.O. remained in the principal's office for the entire school day, there were no behavioral incidents.

Lucas testified that hyperglycemia or hypoglycemia would not cause such behaviors. Lucas, a trained nurse, opined that L.O.'s behavior could be triggered by stress or anxiety. All her behaviors occur when she is within the halls of the school, exposed to the changing of classrooms, and other students. WWMS is a large school with over 1200 students. When L.O. is in that environment, she has behavioral issues. When she was within the confines of the school office, she performed her daily school tasks without incident. When the parents and L.O. permitted the District to administer home instruction, it was administered without incident. L.O.'s abusive behavior is disruptive to all 1200 students at WWMS and to the staff. L.O.'s behavior has resulted in

three school safety alerts, resulting in the teachers and students sheltering in place, not knowing the reasons for the school safety alerts.

The District has an obligation to L.O. and the other 1200 students at the school to ensure that every child has a safe and civil educational environment. The District is responsible for every student within the school walls, and the District must institute a school safety alert whenever any child is in danger. The District has demonstrated by a preponderance of the credible evidence that they have instituted all measures available to them to educate L.O. in the LRE. Keeping L.O. in a setting that has been shown to be repeatedly unsuccessful is not the purpose behind an IEP. The District's obligation is to provide a FAPE in the LRE that will give L.O. the opportunity to obtain a meaningful education. L.O. is a capable student who can obtain a meaningful education, but only if it is provided in an appropriate setting.

The District has demonstrated that L.O. is a student who qualified for special education and related services. The District has crafted an IEP that provides for a self-contained ERI classroom with only four students and therapeutic supports. Despite the District's best efforts to de-escalate L.O.'s behaviors, which have included instituting a BIP, giving her a SmartPass for access to her counselors whenever she needs support, suspending her, and discussing her behavior with her parents, the entire school and staff continue to be subject to L.O.'s erratic and uncontrollable behavior, which has only escalated throughout the year. The self-contained ERI classroom has been unsuccessful for L.O. The District has also demonstrated that L.O.'s best days are when she is home or separated from all interaction with other students at WWMS.

L.O. is a young child who has emotional regulation issues that she is unable to control without the help and assistance of experts. L.O. and her parents fervently believe that WWMS is the best environment for L.O. despite all the testimony to the contrary. L.O. cannot control her behavior, which has resulted in significant disruptions to the other students and staff. Her counselor, Almanzar, opined that the best environment for L.O. is a new school, a fresh start. Abdrabboh, Jaeger and Lucas have all testified that they have done everything they can and they are unable to help L.O. progress at WWMS in a

self-contained ERI classroom and that they must consider the well-being and safety of the other 1200 students and staff.

Based on the entirety of the testimony and evidence submitted, I **CONCLUDE** that the District has demonstrated, by a preponderance of the credible evidence that the IEP developed by the District is appropriately tailored to provide L.O. with significant learning and meaningful benefit in light of her individual needs and potential in the LRE under 20 U.S.C. § 1412(a) and that her placement on home instruction is appropriate. Under the regulations, home instruction must be renewed every sixty days to ensure that it continues to be the LRE for L.O. F.O. and S.O. should consider a more intensive therapeutic program to support L.O. which would be more beneficial to her emotionally. F.O. and S.O. should consider a new environment for L.O. which would give her a fresh start as she is about to enter her teenage years.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that petitioners' due process petition is **DENIED** and **DISMISSED**.

This decision is final pursuant to 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 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.

July 14, 2026

DATE



PATRICE E. HOBBS, ALJ

Date Received at Agency:

July 14, 2026

Date Mailed to Parties:

July 14, 2026

APPENDIX

Witnesses

For petitioner:

F.O., petitioner, father
S.O., petitioner, mother
L.O., student
Andrew Jaeger, principal
Kevin Fink, security specialist
Celine Arias Almanzar, case manager
Bianca Swinsky, Spanish teacher

For respondent:

Bahiah Abdrabboh, supervisor of special education
Christine Lucas, RN

EXHIBITS

For petitioner:

- P-1 February 19, 2026 Incident
- P-2 February 25, 2026 Incident
- P-3 Discipline and Disciplinary Proceedings Including:
 - P-3-1 Discipline History and Incident Log
 - P-3-2 Clifton Board of Education Disciplinary Hearing Decision Letter, dated 4/16/26
- P-4 Evaluations and Assessments
 - P-4-1 Initial Psychological Evaluation (Jason Fobes, school psychologist) April 2025
 - P-4-2 Educational Assessment Report (Mignon Morton) 4/9/25
 - P-4-3 Confidential Social History (Natalie Khatchadourian, MSW) 3/26/25
- P-5 Endocrinology Documentation

- P-5-1 Endocrinology Letter Regarding Blood Glucose Effects on Learning, Behavior and School Accommodations, dated 4/3/26
- P-6 Medical Records
 - P-6-1 Dexcom Clarity Continuous Glucose Monitoring Report 2/16/26–3/2/26
 - P-6-2 Emergency Department After Visit Summary, dated 4/16/26
 - P-6-3 Emergency Department Physician Letter Regarding School Therapist and Return to School, dated 4/16/26
 - P-6-4 Endocrinology Letter Regarding Blood Glucose Effects on Learning, Behavior and School Accommodations, dated 4/3/26
- P-7 IEP Special Education Documents
 - P-7-1 Written Notice and Manifestation Determination Summary, dated 3/12/26
 - P-7-2 IEP Goals and Objectives Annual Review, dated 4/22/26
 - P-7-3 IEP Goals and Objectives Progress Report, dated April 22, 2026
 - P-7-4 Functional Behavioral Assessment (FBA), dated 11/14/25
 - P-7-5 Written Notice Following IEP Meeting and Placement Discussion, dated 5/5/26
- P-8 Communications and Correspondence
 - P-8-1 IEP Meeting, Medical Concerns, Placement and Records, Request Email Chain, dated 4/15/26–4/22/26
 - P-8-2 HIB Investigation, Findings and Parent Correspondence Regarding Disclosure of Medical Information October 2024
- P-9 OAL Litigation Record
 - P-9-1 District Opposition to Application for Emergent Relief, dated 5/18/26
 - P-9-2 Petitioners' Response to District Opposition to Emergent Relief, dated 5/19/26
 - P-9-2 Proof of Service of Witness Subpoenas, dated 5/28/26
 - P-9-3 Petitioners' Preliminary Witness List
- P-10 NJDOE Administrative Record
 - P-10-1 NJDOE Extension of Timelines for Complaint Investigation C2026-7678, dated 4/29/26

For respondent:

- R-1 Social Assessment by Natalie Khatchadourian, dated 3/26/25
- R-2 Psychological Evaluation by Jason Fobes, dated 4/7/25
- R-3 Educational Assessment Report by KID CLAN Center for Learning and Neurodevelopment, dated 4/9/25
- R-4 Functional Behavioral Assessment by Jamie Staron, M.Ed., BCBA, dated 11/14/25
- R-5 Manifestation Determination, dated 5/30/25
- R-6 IEP Amendment, dated 5/30/25
- R-7 Counseling & Service Logs
- R-8 Contact Log
- R-9 SEL & Restorative Practices Procedures for ERI
- R-10 Written Notice, re: Educational Status Meeting, dated 2/6/26
- R-11 Manifestation Determination Review Meeting Outcome, dated 2/27/26
- R-12 Written Notice, re: Parents' Request for IEP Review Meeting, dated 3/18/26
- R-13 Written Notice, re: Strategies to Support L.O. Outside School, dated 3/30/26
- R-14 IEP Progress Report, dated 4/22/26
- R-15 2025–2026 Progress Reporting
- R-16 IEP (Draft), dated 4/23/26
- R-17 Written Notice, re: IEP Meeting, dated 4/23/26
- R-18 Written Notice, re: Continuation of IEP Meeting, dated 5/5/26
- R-19 Undated Behavior Plan
- R-20 Behavioral Data
- R-21 Behavior Log, dated 4/14/26–4/24/26
- R-22 Discipline Log, dated 9/5/25–2/25/26
- R-23 Student Case Notes Listing, dated 10/8/25–4/29/26
- R-24 Written Notice, dated 3/12/26
- R-25 Incident Report, dated 3/11/26
- R-26 Home Instruction Counseling Log
- R-27 Undated Home Instruction Behavior Plan

- R-28 ERESC Home Instruction Troubleshooter Form, dated 5/8/26
- R-29 Daily School Routine (IHP)
- R-30 Individual Health Plan
- R-31 Diabetes Management Plan
- R-32 Blood Glucose Levels/Incident Summary, dated 2/16/26–3/2/26