

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 02890-19

AGENCY DKT. NO. 2019-29449

**MARLBORO TOWNSHIP
BOARD OF EDUCATION,**

Petitioner,

v.

S.R. AND D.R. ON BEHALF OF A.R.,

Respondent.

Robin S. Ballard, Esq., for petitioner, Marlboro Township Board of Education
(Schenck, Price, Smith & King, L.L.P., attorneys)

No Appearance by S.R. and D.R. on behalf of A.R., respondents, pro se

Record Closed: March 18, 2019

Decided: March 28, 2019

BEFORE **JEFFREY R. WILSON**, ALJ:

STATEMENT OF THE CASE

The Marlboro Township Board of Education (Board) seeks an order to deny the respondents' request for an independent evaluation of the minor student, A.R.

PROCEDURAL HISTORY

On February 28, 2019, the Office of Special Education Policy and Procedure (OSEPP) of the New Jersey Department of Education transmitted this matter to the Office of Administrative Law (OAL) for a hearing.

A settlement conference was scheduled March 14, 2019, at 10:00 a.m., at the OAL, located at 9 Quakerbridge Plaza, in Trenton, New Jersey. Notice of the settlement conference was mailed to the respondents on February 28, 2019, from the OAL Deputy Clerk (C-1) and from OSEPP (C-2).

The respondents, S.R. and D.R., failed to appear for the settlement conference on March 14, 2019. A proof hearing was conducted at 10:48 a.m. pursuant to N.J.A.C. 1:1-14.4(d) and the record remained open for an explanation for the respondents' nonappearance. Having received no explanation for the respondents' nonappearance, the record closed on March 18, 2019.

FACTUAL DISCUSSION AND FINDINGS

The following facts are not in dispute; therefore, I **FIND** as **FACT**:

1. The Board is a body corporate with the power to institute lawsuits, pursuant to N.J.S.A. 18 A:11-2.
2. The Board exercises that power herein and institutes this action in accordance with N.J.A.C. 6A:14-2.5(c) against S.R. and D.R. on behalf of their son, A.R., to deny respondents' request for an independent evaluation of A.R.
3. A.R. was born on February 1, 2005. The respondents reside in Morganville, New Jersey, in the area served by the Marlboro Township Public School District (District).
4. A.R. attends eighth-grade at Marlboro Memorial Middle School. He is classified as eligible for special education and related services under the category of Other Health Impaired.

5. A reevaluation planning meeting was held for A.R. on December 4, 2017. It was agreed that educational and speech/language assessments would be completed. Respondents consented to the requested testing on December 4, 2017.
6. The speech/language evaluation of A.R. was conducted on December 11, 2017.
7. Educational testing of A.R. occurred on December 8, 12 and 13, 2017.
8. The Child Study Team's speech/language and educational evaluations of A.R. were appropriate in all respects and included standardized testing appropriate for students his age.
9. The Child Study Team's reevaluation of A.R. included classroom observations.
10. The Child Study Team's evaluation provided data from which A.R. was determined to meet criteria to continue to be eligible for special education and related services under the category of Other Health Impaired.
11. The Child Study Team's evaluation provided data regarding A.R.'s educational needs, which guided the programming offered to him through the Individualized Education Program (IEP).
12. By electronic mail, dated February 19, 2019, respondents requested an independent speech/language therapy evaluation of A.R.
13. The respondents did not state any disagreement with an assessment completed by the District.

Testimony

Dr. Dana Blair, Director of Special Services, testified that the District has provided an appropriate evaluation of A.R. and that the District has acted in accordance with all applicable legal requirements including but not limited to compliance with the Individuals with Disabilities Education Act and the corresponding federal and state regulations. Furthermore, Dr. Blair indicated that A.R. is expected to graduate from the Middle School in June 2019, and already has a program established at his receiving high school to continue providing him with special education and related services under the category of Other Health Impaired.

LEGAL ANALYSIS AND CONCLUSIONS

Pursuant to N.J.A.C 6A:14-2.5(c):

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

Here, the respondents did not state any disagreement with the assessments completed by the District, nor did they meet the criteria for access to an independent evaluation. There was no good cause showing to support the respondents' request for an independent evaluation.

Accordingly, I **CONCLUDE** that it is appropriate that the District deny the respondents' request for an independent evaluation.

ORDER

It is hereby **ORDERED** that the District shall deny the respondent's February 19, 2019, request for an independent evaluation.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2018) 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 (2018). 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 Programs.

March 28, 2019
DATE

JEFFREY R. WILSON, ALJ

Date Received at Agency _____

Date Mailed to Parties: _____

JRW/dm

APPENDIX

WITNESSES

For Petitioner:

Dr. Dana Blair

For Respondent:

None

EXHIBITS

For Petitioner:

None

For Respondent:

None

By the Court

- C-1 Notice of Filing and Hearing from OAL Deputy Clerk, dated February 28, 2019
- C-2 Notice of Due Process Hearing Transmittal to the Office of Administrative Law from OSEPP, dated February 28, 2019
- C-3 Petition for Due Process and Certification of Dr. Dana Blair, dated February 22, 2019