



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**FINAL DECISION**

OAL DKT. NO. EDS 12855-24

AGENCY DKT. NO. 2025-38099

**GARFIELD CITY BOARD OF EDUCATION,**

Petitioner,

v.

**M.V. AND J.R. ON BEHALF OF J.R.,**

Respondents.

---

**Alyssa Weinstein, Esq.,** for petitioner (Busch Law Group, LLC, attorneys)

**M.V. and J.R.,** respondents, pro se

BEFORE **KIMBERLY K. HOLMES, ALJ:**

Record Closed: November 13, 2024

Decided: December 4, 2024

**STATEMENT OF THE CASE**

Evaluations conducted by petitioner Garfield City Board of Education were complete and appropriate. Are respondents M.V. and J.R. entitled to independent evaluations (IEEs)? No. A parent is not entitled to independent evaluation if the evaluations were complete and appropriate. N.J.A.C. 6A:14-2.5(c)(1).

### **PROCEDURAL HISTORY**

On July 3, 2024, respondents filed a Request for Mediation with the Department of Education, Office of Special Education (OSE), seeking a 1:1 aide, a “deep cleaning,” and a “monthly inspection” of their child’s school for “potential dangers.” Petitioners withdrew that request on August 20, 2024.

On August 22, 2024, respondents sent an email to petitioner seeking IEEs for their child. Specifically, petitioners sought a learning disabilities consultant evaluation, a speech and language evaluation, a neuropsychological evaluation, a social worker consultant evaluation, a physical therapist evaluation, and an occupational therapist evaluation. They did not assert that the evaluations were incomplete or inappropriate.

On July 3, 2024, petitioner filed a Due Process Request seeking an order denying respondents’ request for IEEs.

On September 12, 2024, OSE 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.

The hearing was scheduled for October 2, 2024, but petitioner requested an adjournment with the consent of respondents.

The hearing was rescheduled for November 13, 2024, and on that date, I held the hearing and closed the record.

### **FINDINGS OF FACT**

Based upon the testimony provided, and my assessment of its credibility, together with the documents submitted, and my assessment of their sufficiency, I **FIND** the following **FACTS**:

### **Petitioner's Evaluations**

1. J.R. is five years old and resides with his parents in the Garfield School District.
2. Carlos Alvarez is a licensed social worker who has been employed by Garfield for fourteen years. He has thirty years of experience in mental health.
3. Alvarez was present for all the meetings with respondents and J.R.'s Child Study Team. (P-1; P-2; P-3; P-4.)
4. Garfield conducted the educational evaluations when J.R. was two and again when he was five. (P5; P-6; P-8; P-15.)
5. Alvarez speaks fluent in Spanish and interpreted for respondents during all meetings with the Child Study Team. At no time did respondents inform Alvarez that they did not understand the issues discussed during those meetings.
6. In January 2022 and February 2022, Garfield conducted three evaluations for J.R. at respondents' request:
  - a. Developmental Pediatrics evaluation by Natalia M. Karpova, M.D., a neurodevelopmental pediatrician employed by St. Joseph's Health System in Paterson, New Jersey.
  - b. Pediatric Audiological evaluation by Alexandra C. Luna, Sc.D., CC-A, a clinical audiologist employed by Joseph M. Sanzari Children's Hospital in Hackensack, New Jersey.
  - c. Speech-Language evaluation conducted by Stephanie Harding, M.A., CCC-SLP, a speech language pathologist employed by Joseph M. Sanzari Children's Hospital in Hackensack, New Jersey.(P-7; P-8)
7. In May 2022, J.R.'s early intervention provider conducted a Battle Developmental Inventory evaluation.
8. The Child Study team, with respondents' consent, evaluated J.R. in the following areas:
  - a. On May 17, 2022, the Collaborative Eligibility evaluation was conducted by Lisa Rogers, M.A., a learning consultant employed by the District.
  - b. On May 6, 2022, the Occupational Therapy evaluation was conducted by Elizabeth Hemmerle, OTR/L, an occupational therapist employed by Rickard Rehabilitation Services in Waldwick, New Jersey.

- c. On May 6, 2022, the Physical Therapy evaluation was conducted by Erin Ross, MSPT, a physical therapist employed by EMR Therapeutics in Lyndhurst, New Jersey.
9. The 2022 evaluations included input from the licensed professionals and from respondents.
10. Respondents were provided with copies of all evaluations. (P-9.)
11. The 2022 evaluations were technically sound and widely accepted assessment tools for students in J.R.'s age and areas of suspected disability.
12. Respondents did not voice objections to the qualifications or the results of any of the 2022 evaluations of J.R. that were conducted by the professionals employed by Garfield.
13. Once the 2022 evaluations were completed, Garfield decided that J.R. was eligible for special education and related services under the classification of "Preschool Child with a Disability."
14. J.R. received special education and related services under a series of Individualized Education Plans (IEPs) for the 2022-2023 school year, the 2023 extended school year, and the 2023-2024 school year.
15. The Child Study team reevaluated J.R. in the Spring of 2024 with the consent of respondents in the following areas and by the following professionals employed by Garfield:
  - a. Speech-Language evaluation by Katie Hanily, M.A. CCC-SLP, SLS, a speech-language pathologist.
  - b. Psychological evaluation by Shayna Archie, M.A., a school psychologist.
  - c. Educational evaluation by Diana Whitmore, a learning consultant.
- (P-13; P-14.)
16. The 2024 evaluations included input from the licensed professionals and respondents who were provided with copies of the evaluations by Garfield. (P-15; P-16; P-20.)

17. The 2024 evaluations were technically sound and widely accepted assessment tools for students in J.R.'s age and areas of suspected disability.
18. Respondents did not object to the evaluations conducted by Garfield. They questioned neither the qualifications of the licensed professionals who did the evaluations nor objected to the results of the evaluations conducted by Garfield.
19. On June 21, 2024, Garfield determined J.R. eligible for special education and related services under the classification of Autism. The determination was based on the results of the 2024 evaluations and his "aging out" of preschool.
20. Garfield issued an IEP for the 2023 extended school year and the 2023-2024 school year.
21. On August 22, 2024, Garfield notified respondents that all evaluation requests must be submitted to the child study team in person or by mail and not by email.
22. To date, respondents have not submitted any request for any evaluation to anyone in person or by mail.

### **Respondents' Request**

1. Respondents filed a Request for Mediation on July 3, 2024, seeking a 1:1 aide, a "deep cleaning" and a "monthly inspection" of the school for "potential dangers."
2. On August 20, 2024, respondents withdrew the Request for Mediation.
3. Respondents notified Garfield of their disagreement with the program and placement outlined in the June 21, 2024, IEP, namely a self-contained class. They did not disagree with the IEEs.
4. On August 22, 2024, respondents notified Garfield by email that they were requesting IEEs in the areas of learning disabilities, language, and neuropsychology. Respondents also requested IEEs from a social worker, a physical therapist, and an occupational therapist
5. To repeat, respondents did not disagree with the IEEs—neither before, during, nor after the hearing. They merely want the IEEs that they want.

### **CONCLUSIONS OF LAW**

N.J.A.C. 6A:14-2.5(c) and 34 C.F.R. 300.502 govern independent evaluations. Once an initial evaluation has been completed by a school district, a parent can ask for an IEE. However, the parent must state the issue of concern or disagreement with the initial evaluation. Moreover, the parents must specify the assessment sought as a part of the IEE under N.J.A.C. 6A:14-2.5(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 20 calendar days after receipt of the parent's independent evaluation request. N.J.A.C. 6A:14-2.5(c)(1)(i) and (ii). 34 C.F.R. 300.502(b)(2). 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); 34 C.F.R. 300.502(b)(3).

In this case, Garfield timely filed a request for a due process hearing challenging respondents' request for IEEs. Respondents sent an e-mail to Garfield and the IEEs on August 22, 2024, and on that same day, Garfield notified respondents of the requirement that evaluation requests be submitted in person or by mail, not by email. Garfield filed its request for due process on September 12, 2024, within ten days of receiving respondents' request for IEEs.

In addition, Garfield employed qualified and credentialed professionals to evaluate J.R. in 2022 and in 2024.

Moreover, respondents were involved every step of the way. They attended all IEP team meetings related to their son and an employee of Garfield served as an interpreter.

Above all, the evaluations conducted by Garfield were administered in a technically sound and widely accepted manner for students of J.R.'s age in all areas of suspected disability. At no time did respondents object to the evaluations or the evaluators.

Finally, respondents have not identified any specific deficiencies in the evaluations conducted by Garfield, and they have not articulated any disagreements with the evaluations conducted. True enough, respondents want the best for their son. However, they disagree with the program placement of J.R. outlined in the IEP—not the evaluations conducted by Garfield. Indeed, respondents offered no evidence to dispute or counter the appropriateness of the IEEs.

Based upon a review of the totality of the evidence presented, I **CONCLUDE** that Garfield has established, by a preponderance of the credible evidence, that the District complied with all legal requirements for conducting evaluations, that the evaluations it performed were appropriate and constitute an accurate and complete representation of J.R.'s abilities, and that no additional evaluations are necessary or warranted. Accordingly, I further **CONCLUDE** that the parents' request for independent evaluations is denied.

**ORDER**

I **ORDER** that Garfield's due process petition is **GRANTED** and respondents' request for independent evaluations is **DENIED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2024) 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 (2024). 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.

December 4, 2024

DATE



**KIMBERLY K. HOLMES, ALJ**

Date Received at Agency

December 4, 2024

Date Mailed to Parties:

December 4, 2024

Isr



**APPENDIX**

**List of Witnesses**

**For Petitioner:**

Carlos Alvarez, Social Worker  
Katie Hanily, Speech/Language Therapist  
Shayna Archie, School Psychologist and Case Manager  
Diana Whitmore, Learning Disabilities Teacher Consultant

**For Respondent:**

M.V.  
J.R.

**List of Exhibits in Evidence**

**For Petitioner:**

- P-1 Initial Evaluation Plan, dated 4/14/2022
- P-2 St. Joseph's Health Developmental Pediatrics Consultant Note, dated 1/21/2022
- P-3 Hackensack University Medical Center Speech Language Evaluation, dated 2/2/2022
- P-4 Hackensack University Medical Center Pediatric Audiologic Evaluation, dated 2/4/2022
- P-5 District Physical Therapy Evaluation, dated 5/6/2022
- P-6 District Occupational Therapy Evaluation, dated 5/6/2022
- P-7 Battelle Developmental Inventory, dated 5/17/2022
- P-8 District Collaborative Evaluation Report, dated 5/17/2022
- P-9 Initial Eligibility Conference Report, dated 8/31/2022
- P-10 Initial IEP, dated 8/31/2022
- P-11 Annual Review IEP, dated 6/9/2023
- P-12 Email and attachment regarding PT considerations, dated 6/19/2023
- P-13 Re-Evaluation Plan, dated 4/26/2024
- P-14 District Speech-Language Evaluation, dated 4/29/2024
- P-15 District Collaborative Re-Evaluation Report, dated 6/10/2024

P-16 Eligibility Conference Report, dated 6/21/2024

P-17 IEP, dated 6/21/2024

P-18 Parental Request for Mediation, dated 7/3/2024

P-19 Closure of Parental Request for Mediation, dated 9/11/2024

P-20 Parental Request for Independent Educational Evaluation(s), dated 8/22/2024

P-21 District Petition to Deny Independent Educational Evaluation(s), dated 8/29/2024

P-22 Prehearing Order, dated 9/24/2024

For Respondent:

R-1 Letter from Natalia Karpova, M.D., dated 11/12/24