



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

**FINAL DECISION**

OAL DKT. NO. EDS 13373-25

AGENCY DKT. NO. 2026-39550

**L.M. ON BEHALF OF A.M.,**

Petitioner,

v.

**METUCHEN BORO BOARD**

**OF EDUCATION,**

Respondent.

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**Sarah E. Zuba**, Esq., for petitioner (Reisman Gran Zuba LLP, attorneys)

**Jessica Kleen**, Esq., and **Arian Rouzbehnia**, Esq., for respondent Metuchen Boro Board of Education (Machado Law Group, attorneys)

Record Closed: March 4, 2026

Decided: April 13, 2026

BEFORE **GAURI SHIRALI SHAH**, ALJ:

**STATEMENT OF THE CASE**

After failing to consent for almost five months to four individualized education programs (IEPs) developed by Metuchen to provide access to a free and public education (FAPE), parent L.M. consented to the IEP for fifty school days before unilaterally placing student A.M. in a private school. L.M. seeks tuition reimbursement for the unilateral

placement. Is L.M. entitled to tuition reimbursement? No. A school district shall not be required to make tuition reimbursement where it made a FAPE available. N.J.A.C. 6A:14-2.10.

### **PROCEDURAL HISTORY**

On July 30, 2025, petitioner L.M. (the parent) filed a due process petition with the New Jersey Department of Education, Office of Special Education, on behalf of her son A.M. seeking a determination that respondent Metuchen Boro Board of Education (Metuchen or the Board) denied FAPE to A.M. for the 2023–2024 and 2024–2025 school years. Petitioner also seeks from Metuchen compensatory education for those years, as well as reimbursement for costs of the current out-of-district private program where A.M. was unilaterally placed by the parent in January 2025, continued prospective placement, and the transportation costs associated with placement. L.M. also contends that Metuchen failed its child-find mandate under the Individuals with Disabilities Education Act (IDEA) and should have identified A.M.'s special education needs earlier. As part of her due process petition, petitioner also brought claims under Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act (ADA), and the New Jersey Law Against Discrimination (LAD).

Metuchen filed an answer to the due process petition on August 25, 2025.

On August 29, 2025, 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 September 9, 2025, I held an initial telephonic conference with the parties to discuss the case. Additional conferences followed on September 23, 2025, and October 14, 2025. A final pre-hearing conference was held on November 14, 2025, which resulted in my issuing a November 14, 2025, final prehearing order.

On November 17 through 19, 2025, and on December 1, 2025, December 4, 2025, and December 11, 2025, I held the hearing. At the start of the hearing, I dismissed the non-educational claims brought by petitioner under Section 504 and the claims under the LAD for lack of jurisdiction.

At the parties' request, the record was kept open to obtain the transcripts and provide for post-hearing submissions. Post-hearing submissions were due on February 12, 2026. On February 12, 2026, petitioner's counsel requested, with respondent's consent, an extension of time of five days, or until February 17, 2026, to file post-hearing submissions. I granted the request. On February 17, 2026, I received respondent's post-hearing submission. On February 18, 2026, my office reached out to petitioner's counsel to advise that we had not received her submission and that it was now past the extension period. No response was received from petitioner on February 18, 2026. On that same day respondent sent a letter requesting that any late submission by petitioner be barred or that respondent be permitted an additional fifteen days to file a response to any late submission accepted by the court. On February 20, 2026, I received an email from petitioner forwarding an emailed letter and submission sent to my judicial assistant after business hours on February 19, 2026. In petitioner's letter, counsel explained that she was ill, had been traveling, and had internet and staffing issues that caused the late filing. Petitioner's counsel further represented that she had not viewed respondent's brief but would consent to any additional filing by respondent.

On February 23, 2026, I accepted petitioner's late submission, and permitted respondent until March 4, 2026, to file any additional response. On March 4, 2026, I closed the record.

### **DISCUSSION AND FINDINGS OF FACT**

This case involves the January 2025 unilateral placement of A.M., a fourth-grade student, in the Center School. The key issue is whether A.M. was denied a FAPE by Metuchen, the school district he attended from September 2022 to January 30, 2025. Petitioner parent contends that A.M. was denied FAPE, making the unilateral placement

a necessary and reasonable action. Petitioner also asserts that Metuchen failed in its child-find obligations by not assessing A.M. for disability earlier.

Respondent contends that it offered and provided a FAPE to L.M. through a series of IEPs starting in June 2024, but that the parent refused to consent to any IEP until November 2024 and allowed the IEP to be implemented for approximately thirty school days before unilaterally placing him in the Center School. Respondent also denies that it shirked its child-find obligations.

Metuchen provided testimony from Dr. Deneane Bonassisa, the district's director of special services, and Eric Stein, a speech-language pathologist. Dr. Bonassisa, who has over twenty-five years of experience in special education, was admitted as an expert in the following areas: special education programming, evaluating students for IDEA and 504 plans, and implementing special education programs. Stein, who has fifteen years of experience as a speech-language pathologist, also was qualified as an expert in speech and language in special education, including in assessments, program development, and providing direct services to students being evaluated or classified under the IDEA.

Petitioner produced testimony from A.M.'s current teacher from Center School, Maria Stadtmueller, and the Center School psychologist Steven Barosi. Ms. Stadtmueller has a New Jersey teacher certification in elementary education for grades K–4, and special education for grades K–12, and eight years of teaching experience, all in the private-school setting. She was qualified as an expert as a teacher of elementary-school students with disabilities as defined by her New Jersey certification, limited to private schools.

Steven Barosi is a New Jersey licensed psychologist who currently works at the Center School. Barosi was qualified as an expert in clinical psychology and school psychology.

Testimony was also provided by Marisa Brunner, a speech-language pathologist at Beyond Communication. Brunner was admitted as an expert in speech-language

pathology with specialization in language, literacy, and cognition. Parent L.M. also provided extensive testimony. A large volume of documents, including draft IEPs, email correspondence, evaluation reports, and A.M.'s schoolwork, were also admitted into evidence by the parties.

### **Background and First Grade**

A.M. entered first grade in Metuchen in the 2022–2023 school year and attended Campbell School. Kindergarten was completed at the Centenary School, a YMCA program. According to L.M., the teacher shared a social-emotional observation from kindergarten with Metuchen and recommended that A.M. be placed in a co-teaching classroom. P-101. Metuchen placed A.M. in a co-teaching classroom for first grade. Ibid.

A.M. concluded his first-grade year meeting grade-level standards in both English/language arts (ELA) and math based on the respective DIBELS (Dynamic Indicators of Basic Early Literacy Skills) and i-Ready assessments conducted. R-1; R-3. On his report card, A.M. academically met grade-level standards with independence. R-2. For interpersonal skills, A.M.'s report card reflected that he either met or exceeded expectations with independence in fourteen out of sixteen categories. Ibid. In an email to Metuchen, L.M. specifically noted that A.M. had “a very successful and positive year” in first grade. R-5.

In her testimony, L.M. noted that A.M. had started feeling bad about himself toward the end of first grade. In response to this observation, during the summer between first and second grade L.M. had A.M. start to see a private licensed professional counselor.

On August 1, 2024, at the counselor's suggestion, L.M. also requested that Metuchen provide a teacher for second grade who had “a positive approach to classroom management” and would be sensitive to A.M.'s anxieties about school and his negative self-talk. R-5. A.M. was assigned to Erin Santasieri for second grade. L.M. testified that she was happy with this choice and was familiar with Santasieri, who had taught one of her other children. R-6.

### **The 2023–2024 School Year: Second Grade**

In September 2023, Santasieri reached out to L.M. noting A.M.'s lack of attention during class and his behavior. Santasieri initially developed a behavior plan for A.M., and when that was not successful she tried, over the course of fall 2023, to modify the behavior plan. R-7. At parent-teacher conferences held at the end of November 2023 Santasieri advised L.M. that the behavior plan had not been effective and that she wanted to refer A.M. to the school's Intervention and Referral Service (I&RS). R-7. On December 8, 2023, Santasieri referred A.M. to the I&RS, identifying only A.M.'s behavioral problems, not any academic problems, as the basis for the referral. R-17. In a December 8, 2023, email to Santasieri, L.M. agreed that, while A.M. was performing generally at grade level, the "distractibility" issues in the classroom were impeding his true academic potential. R-7. A mid-year DIBELS assessment, which evaluates literacy skills, found A.M. meeting benchmarks with an overall comprehension score of 70% and a spelling score of 72%. R-19 at MBOE AML 0062. A January 24, 2024, i-Ready assessment for math found A.M. at Grade 2 level for all areas except measurement and data, for which he was approaching Grade 2 level. R-19 at MBOE AML 0063.

An I&RS meeting was held on January 23, 2024. Ms. Hsu, the school guidance counselor, was the case manager for the I&RS committee and interviewed L.M. and A.M.'s father prior to the meeting. L.M. and A.M.'s father also had the opportunity to provide information and input to the I&RS committee prior to the meeting. R-25. As a result of their January 23, 2024, meeting, the I&RS committee developed an I&RS meeting Summary and Plan (the Plan). R-26. The Plan involved use of a token board. Essentially, A.M. would be rewarded with a token for every task completion and was expected to receive five tokens at least three times per day. Ibid.

### **Request for Section 504 and IDEA Evaluation**

Thereafter, L.M. reached out to A.M.'s pediatrician, Dr. Medha Gavai, to discuss the issues that A.M. was experiencing at school, including those identified by Santasieri in the I&RS referral. A.M.'s teacher and L.M.'s parents completed questionnaires requested by Dr. Gavai as an assessment for attention deficit hyperactivity disorder

(ADHD). P-1; P-2. In a February 12, 2024, letter, Dr. Gavai diagnosed A.M. with ADHD and further recommended that A.M. receive accommodations for this diagnosis at school under Section 504. R-28.

On February 14, 2024, L.M. sent a detailed email to Metuchen. R-29. The email requested that all records used for the I&RS plan be provided to her and also attached Dr. Gavai's letter and recommendation that Section 504 accommodations be provided to A.M. due to his diagnosed ADHD. Ibid. The email further advised that on May 20, 2024, at the recommendation of Dr. Gavai, A.M. was scheduled for a neurodevelopmental evaluation at the Children's Hospital of Philadelphia (CHOP). L.M. also asked if A.M. was eligible for special education services under IDEA or Section 504.

Bonassisa testified that Metuchen immediately started working on a 504 plan based on Dr. Gavai's letter, and a 504 determination meeting with the parents was scheduled for March 19, 2024. R-34. Ms. Hsu was also the case manager for the 504 committee at Metuchen.

On February 26, 2024, L.M. emailed Metuchen to inquire about evaluation by the child study TEAM (CST) for eligibility under the IDEA. R-30. Bonassisa explained that Metuchen, which was already working on a 504 plan based on Dr. Gavai's letter, as acknowledged in L.M.'s email, accepted this as the official request for a CST evaluation. Ibid. Metuchen moved to expedite a CST meeting for A.M., and an identification meeting was scheduled for March 8, 2024. R-33. Bonassisa conceded that the CST meeting was not scheduled within twenty days of the February 14, 2024, email from L.M., but it was scheduled within twenty days of the February 26, 2024, email. Bonassisa testified that based on mid-year assessments of A.M., he was meeting most of his grade-level benchmarks for second grade in February 2024. R-1; R-19; R-32.

On March 8, 2024, Metuchen's CST held an identification meeting with L.M. to discuss parental concerns and the issues A.M. was having at school. P-7. L.M. submitted input to the CST via a letter dated March 6, 2024. P-6. L.M. requested evaluations including a neurodevelopmental/neuropsychological and educational evaluation and a functional behavior assessment (FBA). At the meeting, a determination was made that

the following evaluations of A.M. should be obtained: educational, social history, psychological, neurological, and occupational therapy (OT). The CST did not agree to conduct a FBA at that time. On March 11, L.M. consented to the initial evaluations. R-36.

### The 504 Plan

On March 19, 2024, the 504 determination meeting was held. A.M.'s parent provided input to the 504 committee prior to the meeting, as well as a list of accommodations suggested by his private counselor. P-4; P-5; R-31. An April 12, 2024, 504 Accommodation Plan for A.M., with an eligibility date of March 19, 2024, was approved. R-34; R-38.

The 504 plan included accommodations recommended by A.M.'s private counselor. R-31; R-38. The accommodation provided included offering breaks to A.M., offering alternative seating, allowing A.M. to move away from noise or other distractions, performing check-ins, chunking up materials into smaller sections, encouraging movement and brain breaks, and providing graphic organizers and a checklist to help A.M. stay organized. R-38. Bonassisa testified that the 504 plan, which considered A.M.'s ADHD diagnosis, acted as an interim accommodation for A.M. while Metuchen evaluated him for special education eligibility.

In addition, on March 19, 2024, a follow-up I&RS meeting was held. The I&RS committee agreed that the behavior plan was working inconsistently for A.M. but noted that he was granted a 504 Accommodation Plan and was being evaluated by the CST. R-37. L.M. agreed that sometimes the behavior-plan system worked and sometimes it did not.

### The Initial Evaluations and the June 2024 IEP

Between April 2024 and May 2024, A.M. underwent educational, social history, psychological, and OT initial evaluations. R-39; R-41; R-42; R-43. A.M. also underwent a private neurodevelopmental evaluation at CHOP, which Metuchen accepted. P-10.

An initial eligibility determination and IEP development meeting was scheduled for June 6, 2024. R-40. Metuchen had not received the neurology evaluation but wanted to move forward to develop an IEP, with the understanding that the CST would reconvene after receipt of the report to make any changes to the IEP based on the neurologist's recommendations for accommodations or programming. Bonassisa explained that at the initial eligibility meeting each evaluation is discussed, the parent is provided an opportunity to ask questions, and an IEP is developed.

L.M. submitted a letter dated June 4, 2024, with her input for the CST to consider for the eligibility meeting. P-14. Included in L.M.'s request was a multi-sensory reading program for reading, such as Wilson or Orton-Gillingham (OG), and accommodations such as audiobooks and extra time to complete reading assignments, direct instruction and goals for handwriting including OT, and involvement of a board-certified behavior analyst (BCBA) to develop interventions to address how A.M.'s ADHD impacted his socio-emotional state in school. Ibid. L.M. also advocated for a social-skills group for A.M., and for additional evaluations in executive functioning, dyslexia, and social communication.

At the June 6, 2024, meeting, A.M. was found eligible for special education and related services under the classification of "other health impairment," and a draft IEP was developed (the June 2024 IEP). R-46. The June 2024 IEP provided in-class resource for ELA, math, science, and social studies. It also provided counseling and OT as related services. R-48; R-47. The school-based counselor was to address any social-emotional issues at school, and A.M. would participate in a Social Skills group throughout the school year. At this time, Bonassisa explained, A.M.'s behavior in class was not affecting his academic progress in the general education curriculum. The June 2024 IEP also called for extended school year (ESY) during the summer for A.M.

Bonassisa testified that the IEP provided accommodations and modifications and noted the parent's concerns. Moreover, she provided her expert opinion that, at that time, the IEP provided the least restrictive environment for A.M., who was functioning academically.

The draft IEP was sent to L.M. on June 17, 2024, for her review and consent. P-18. L.M. did not consent to the IEP but requested an interim IEP to cover the ESY only. Ibid. Metuchen explained that it could not do a five-week IEP but agreed to an interim IEP so A.M. could access the ESY. Bonassisa explained that even if L.M. consented to the June 2024 IEP, they were still waiting for the neurologist's report, and the CST would reconvene to discuss that evaluation, and amend the IEP as necessary.

L.M. testified that she did not feel that the IEP addressed all of the items discussed at the June 6, 2024, IEP meeting. Metuchen agreed to provide the ESY without the full consent for the IEP, and A.M. attended the ESY that summer. During the ESY, A.M. also received OG literacy services from Metuchen's reading specialist.

#### IEPs between July 2024 through November 2024

On July 15, 2024, Metuchen forward a copy of Dr. Vanna Amorapanth's neurodevelopmental evaluation to L.M. and sought to schedule another IEP meeting for July 25, 2024. P-19; R-48. In turn, L.M. forwarded to Metuchen the private OT evaluation report prepared by Dr. Joanne Hunt at CHOP for consideration at the IEP meeting, which was scheduled for July 31, 2024. R-49.

Dr. Amorapanth diagnosed L.M. with ADHD, dyslexia/dysgraphia, and pragmatic/social communication disorder and provided recommendations for educational intervention, behavioral management, and potential pharmacological treatment. R-48. For educational interventions, Dr. Amorapanth recommended multisensory teaching through OG for dyslexia, and accommodations including verbal instructions, computer writing with a writing speech-to-text app when learning writing, accommodation and support for executive function, audiobooks, and social facilitation and support in unstructured environments. Ibid. A.M. was already receiving OG services from a reading specialist during the ESY.

On July 31, 2024, Metuchen sent L.M. a second draft IEP developed at the July 31, 2024, IEP meeting (July 2024 IEP). P-20. The July 2024 IEP included items

requested by L.M. including the social/emotional goal, the BCBA support pending completion of a FBA, the reading specialist pull-out, and some adjusted modifications. P-19. L.M. replied that same day, expressing concerns that additional modifications or accommodations based on Dr. Amorapanth's report and the OT evaluation of Dr. Hunt were not included. Additional emails followed from L.M. on August 2 and August 5, 2024. Ibid. These emails included L.M.'s consent for the FBA and inquired about a speech-language (S/L) evaluation, an updated assessment by the reading specialist during ESY, and when a revised IEP with additional modifications would be received. On August 5, 2024, an email from Metuchen advising follow-up on the S/L evaluation and attaching an updated draft IEP with additional modifications was sent to L.M. P-20 at 1.

On August 19, 2024, L.M. sent a six-page detailed letter to Metuchen requesting specific language changes to the August 6, 2024, draft IEP, including adding full paragraphs from the reports of Dr. Amorapanth and Dr. Hunt to the section on present levels of academic achievement and functional performance; changes to various goals in the draft IEP, including reading/writing and social/emotional goals; and edits to the language used in the modifications/accommodations section. P-21. On August 28, 2024, Metuchen advised L.M. that it had made many of the changes from the August 19, 2024, letter and sought a telephone conference to discuss the changes. P-22. The changes to the accommodations/modification language in the IEP discussed with L.M. during the telephone conference were documented in an email from Metuchen to L.M. P-28.

A fourth draft IEP dated August 28, 2024 (August 2024 IEP) was sent to the parent by Metuchen. P-23. The August 2024 IEP included additional parent input that had been provided by L.M. R-50 at Bates 256; P-28. L.M. did not consent to the August 2024 IEP. The IEP continued to offer in-class resource for math, ELA, social studies, and science, along with OG reading intervention.

A September 4, 2024, letter from L.M. to Metuchen requested changes to the goals and objectives in the IEP, and the addition of modifications and accommodations, supplementary aids, and present-levels information. R-51. At this point, school had started, and there was no IEP in place for A.M. for third grade. However, the 504 plan remained in place. L.M., in her testimony, anecdotally claimed that she was not sure the

504 was not being properly implemented in the school. For example, she noted that, as an accommodation, A.M. was to receive help with his planner. She testified that sometimes things were highlighted, sometimes not, and at one point there was a shorthand approach used, but A.M. could not recall the shorthand.

Metuchen had agreed to conduct an FBA of A.M. but wanted to wait until October 2024 to conduct it. Bonassisa explained that as it was a new school year, and a new classroom setting for A.M., it made sense to give him time to adjust to the new setting before conducting the FBA. At L.M.'s insistence, the FBA was conducted in September and a report was issued on September 16, 2024. R-53.

As a result of the FBA, a behavior intervention plan (BIP) was developed for A.M. by a BCBA. R-54. The BIP included tracking data for three primary classroom behaviors of A.M. that needed reduction. These included task refusal, yelling, and property disruption. A.M.'s classroom teachers and a paraprofessional were responsible for the data collection for these behaviors on a data-collection sheet. R-74. On cross-examination, Bonassisa was unable to confirm when or how often data sheets were collected, if others than those produced existed, and why additional behaviors such as elopement were not targeted by the BCBA. L.M. took issue with the FBA conducted by Metuchen and the BIP that resulted from it, as well as the data-collection process and methodology.

An October 1, 2024, IEP meeting was held with the CST and the parent to discuss the FBA, and this yielded an October 1, 2024, draft IEP (October 2024 IEP). R-57. The proposed IEP, developed during a three-hour meeting, added most of the items requested by the parent, including supplemental pull-out OG services three times per week. R-52; R-57.

The BCBA also presented the BIP plan, including the target behaviors based on her discussion with teachers and her own observations. P-105. These target behaviors included task refusal, yelling, and property disruption. The property disruption usually involved banging his desk or lockers or throwing or knocking over things like chairs. The BCBA concluded that A.M.'s behavior arose from a demand made of him and subsequent

task refusal. Ibid. The yelling and property disruption followed, depending on the location (in-class versus outside of class) of the refusal and depending on whether his peers or teacher engaged with A.M. Based on her observations, the BCBA noted that yelling in class was rare and mostly directed at peers who tried to re-direct A.M., while property disruption in class occurred when teachers engaged in “planned ignoring.” Ibid. The BCBA described planned ignoring as when the teachers walked away to allow A.M. time and space, and the class continued on with the planned activity.

At the October 1, 2024, IEP meeting, the BCBA described her observations of A.M., which were conducted over two days, September 9 and 10, 2024, in two-hour blocks. The September 9, 2024, observation started at 10:00 a.m., as A.M. came to school late. On that day, he refused to enter the classroom and sat in the hallway, and it took thirty-five minutes for the teachers, taking turns, to get him into the classroom. That day there was also banging on his desk during class and a refusal to transition to recess. However, at lunch, which followed recess, A.M. was observed interacting with his peers with no distress. On September 10, 2024, A.M. had no problems transitioning between classes and activities and worked independently. In the afternoon, between 12:24 p.m. and 2:25 p.m., he had difficulty transitioning to class, where he stayed in the hallway for one minute but responded to the teacher re-directing him into the classroom. When the class transitioned from science/social studies to reading, A.M. requested a sensory device and put his head down on the desk. He kept his head down on his desk and did not participate in reading or the writing that followed and fell asleep. He left school early that day.

At the October 1, 2024, IEP meeting the parent also requested an S/L evaluation, which Metuchen agreed to provide. R-57. On October 7, 2024, L.M. provided consent for the S/L evaluation. R-70.

The IEP also offered NEST (Nurturing Empathetic Supportive Trust) services, which are on-demand counseling and therapeutic services through Rutgers Behavioral Health that can be provided in the school setting on an as-needed contemporaneous basis. P-52; P-53. L.M. refused NEST services because, as she explained, A.M. was already receiving outside counseling.

### The Speech-Language Evaluations and Reports

There were two S/L evaluations conducted of A.M. The first was by Metuchen's speech-language pathologist, Eric Stein. The second S/L evaluation was conducted on January 2, 2025, by Marisa Brunner, a speech-language pathologist associated with Beyond Communication, at the behest of petitioner. Both provided expert testimony at the hearing based on their reports, testing, and observations of A.M. R-70; R-103.

Stein testified that he was unable to complete a standardized evaluation of A.M. due to task refusal. Specifically, he was able to conduct two sub-tests, one for receptive language and one for expressive language. Receptive language is the ability to understand information presented verbally or in written form while expressive language is the ability to both formulate and present ideas verbally or in writing. Stein opined that A.M. scored average in these two sub-tests, which were performed on October 10, 2024. Stein described in detail the difficulties experienced in getting A.M. to leave his classroom and come for the testing and how A.M. sought to negotiate how much time for breaks, such as games, he would receive for the work (the testing) he was being asked to do.

On October 18, 2024, Stein sought to continue the testing. Stein was unable to complete testing in pragmatic language skills because A.M. refused to leave class and became visibly distressed. Ms. Hsu was called to assist A.M. Stein testified that, at that point, he did not want to cause any additional distress for A.M., and so he did not attempt further testing to assess pragmatic language skills, which relate to how one interacts socially. Instead, Stein conducted observations of A.M.'s pragmatic language skills at times he was not in the classroom, and had an opportunity to interact with other students, namely, at lunch and recess. He also spoke with A.M.'s teachers to understand how A.M. interacted with his classmates generally, and in small groups. It was Stein's expert opinion that direct S/L services were not appropriate for A.M., whom he concluded had the ability to participate both academically and socially.

On December 12, 2024, L.M. retained Beyond Communication to conduct a private S/L evaluation. Marisa Brunner, a New Jersey certified speech-language pathologist,

conducted the evaluation and produced a report. P-83 at 17–44. Brunner reviewed prior evaluations; tested A.M. on oral language, reading and writing skills; and conducted an observation at the Center School. P-82 at 17–44. Brunner found A.M.’s scores in oral language and reading to be average to low average. She was unable to complete any writing testing due to A.M.’s refusal. Brunner also utilized a Behavior Rating Inventory of Executive Function (BRIEF). The BRIEF was a survey or inventory sent to L.M. and A.M.’s teachers at Metuchen. In the thirteen categories BRIEF asked about, including working memory, ability to plan/organize, and emotional regulation, L.M.’s scoring found A.M. to be clinically elevated on the scale in ten categories. In contrast, the teacher’s BRIEF responses found A.M. clinically elevated in four categories, and average in six categories. With these scores, Brunner concluded that A.M. had significant executive-functioning challenges. Stein, in his testimony, disagreed, and pointed to the average to low-average scores on standardized testing versus the executive-functioning scales, which are not standardized but based on individual perception.

#### November 2024 and Consent for IEP

On November 12, 2024, L.M. gave consent for Metuchen to implement the October 2024 IEP. P-105. L.M. expressed that while she did not agree with this IEP either, she wanted A.M. to receive the resources and services it provided, including OT. At the time, A.M. was receiving OT services at CHOP as well, which required him to leave school early or arrive late.

According to Bonassisa, in November 2024 A.M. was generally performing at grade level though he was having issues with writing. A November 22, 2024, email from A.M.’s teacher to L.M. confirmed that he was doing well in class. At the time, with the implementation of the IEP, A.M. was seeing the school psychologist and receiving counseling. However, in December 2024 A.M.’s behavioral issues began to escalate.

#### December 2024 through January 2025

During December 2024, behavioral incidents with A.M. increased in intensity. P-63; P-64. These included not only outbursts but cursing and other behavior, such as

throwing chairs. In each instance L.M. carefully questioned Metuchen staff about the steps they took with A.M. to prevent the incident and escalation of his behavior. P-63; P-64.

On December 11, 2024, Metuchen conducted the first of two risk assessments. R-85; R-86. A risk assessment involves interviewing the student to assess whether he is a danger to himself or others or can be cleared to return to the classroom. If additional clearance is required, then an assessment and clearance by a medical provider is required. As a result of the risk assessment, a safety plan was developed with the parent for A.M. R-88.

Another risk assessment for A.M. was conducted by Metuchen on January 14, 2025, and another safety plan was developed. R-113; R-115. Metuchen recommended that a psychiatric evaluation be conducted and that the BIP be updated. P-65.

The psychiatric evaluation was conducted on March 26, 2025, by Rajeswari Muthuswamy, M.D. P-82. In her report, Dr. Muthuswamy described her interaction with A.M., noting that when asked about his school experiences he became angry and upset. Ibid. She noted that any demands placed on him resulted in his “growling,” crying, or irritability. Dr. Muthuswamy diagnosed A.M. with ADHD, disruptive mood dysregulation disorder, autism spectrum disorder, and oppositional defiance disorder. Ibid. On May 3, 2025, L.M. sent a letter to Metuchen disputing Dr. Muthuswamy’s description of the events that transpired at the psychiatric evaluation and requesting that A.M.’s records be amended to reflect her concerns. R-123. L.M. denied that A.M. was angry or irritable, growled, or presented with significant oppositional tendencies. L.M. did agree that A.M. was upset and cried and blamed this on Dr. Muthuswamy asking about A.M.’s Metuchen experience, which she detailed had been difficult and traumatic. Ibid.

#### The Unilateral Placement and January 31, 2025, IEP Meeting

A January 15, 2025, letter from petitioner’s counsel advised Metuchen of L.M.’s intent to make a unilateral placement for A.M. R-114. L.M. testified that she began to explore the Center School on December 8, 2024, but that she also had considered other

schools for unilateral placement. The Center School is a private school that provides educational services to students with disabilities in grades K–8.

Another IEP meeting was held on January 31, 2025, for the CST to consider the placement. Bonassisa testified that the CST felt that the Metuchen program was more robust than the Center School program academically and did not agree to the placement. Furthermore, she opined that Metuchen could provide an education in the least restrictive environment for A.M., as he would have the opportunity to take classes with general education students, while this would not be an option at the Center School. The January 31, 2025, IEP developed offered A.M. in-class resource for math, social studies, and science and a daily pull-out small-group intensive reading program with OG. It also offered OT, counseling, and participation in a social-skills group as related services. L.M. did not consent to the January 31, 2025, IEP.

January 30, 2025, was A.M.'s last day at Metuchen. According to the Metuchen school calendar there were fifty school days between November 12, 2024, and January 30, 2025. Of these, A.M. was absent for ten days and was either tardy or left early another eleven times. Thus, according to Metuchen, A.M. was receiving services under the consented-to October IEP for no more than thirty full school days. While there was no doubt that A.M. was in behavioral distress from December 2024 through January 2025, academically he was performing at grade level based on mid-year assessments. R-94; R-95.

### The Center School

A.M. started at the Center School on February 10, 2025. L.M. testified that she thought that the school, which hosts K–8 students, had the resources to provide the best education for A.M. in the context of his disabilities.

Center School has 100 students in grades K–8 with small class sizes, allowing A.M., in L.M.'s estimation, to receive the individual attention he needs. The entire elementary school at Center School currently consists of thirteen students placed in four classrooms. All the students at Center School have multiple disabilities; no general

education students attend. L.M. noted that the Center School had a psychologist on site, and he was situated next to the classroom so he was available to address any problems that arose.

The April 7, 2025, Center School IEP calls for 360 minutes of education total over four subject areas daily: math, ELA, social studies, and science. For related services, A.M. receives individual counseling and group counseling, each one time per week for thirty minutes. OT is provided three times per week for thirty minutes. There is no behavior intervention plan identified for A.M., but the IEP reflects that moderate to intensive interventions were necessary to address behavioral issues. Additionally, Center School allowed A.M. to receive less or staggered work and as much time as he needed to complete it. The Center School IEP also does not contain the extensive goals, accommodations, or other sections that any of the Metuchen IEPs include.

L.M.'s current teacher, Maria Stadtmueller, testified about the organization of Center School classes and her interactions with L.M. in the 2025–2026 school year. Stadtmueller testified that she had only started at the Center School in the 2024–2025 school year. Center School considers both grade and ability when grouping students for a class. Thus, A.M.'s current class consists of three students, two of whom are fourth graders and one who is a fifth grader. During the 2024–2025 school year, there were five to six students in A.M.'s class.

Stadtmueller explained that there are four individual classes taught in elementary school daily plus gym, and the students then focus on a rotating special such as art or wood shop. She described the layout of Center School elementary school as one common area with classrooms clustered in a U shape around it. The students meet in the common area for morning meeting before going to their classrooms, and they meet again in the afternoon for a “choice” period. OT services are provided in an OT gym, and the students eat lunch in the cafeteria and have recess on the playground. There are two paraprofessionals that are shared among the four classrooms.

Interestingly, Stadtmueller had known A.M. previously when he attended a summer camp a few years prior at St. Francis Cathedral School, where she was a

summer counselor. She described A.M. at that time as having a difficult time with transitions, with doing unpreferred activities, and with his peers. She described the A.M. that she met this year as much happier, less combative, and with some friendships. At the time of her testimony she had only been teaching A.M. for approximately three months. She noted that he had progressed nicely since September 2025, and that he currently completes most of his schoolwork. When Stadtmueller reviewed the binder of A.M.'s work from the prior school year as kept by his teacher, she noted that there were a lot of empty worksheets and not a lot was completed.

According to Stadtmueller, A.M. continues to struggle with transitions at times or when things are unexpected or take longer than expected. For example, if he has to transition from downtime on the computer to the next subject he gets frustrated and huffs or stomps his foot or hits his desk. She uses a timer system to let him know it is time to move to the next activity. Furthermore, Stadtmueller advised that she uses the threat of losing "choice time" at the end of the day, matching the minutes of "choice time" lost to the minutes of delay or refusal by A.M., as an effective measure to keep A.M. moving toward completion of the activity required.

Currently, A.M. continues to struggle with writing, and graphic organizers are used to help him. He prefers doing work on the computer rather than pencil and paper on a worksheet. Where possible, he is accommodated in this regard.

With reading, Stadtmueller explained that A.M. prefers audio reading more than the written word. She accommodates him by requiring him to read only a half page out loud while the rest of the class will read two pages. She expressed that she does not give him difficult things before giving him easier items to manage to give him "some wins."

Stadtmueller offered her professional opinion that the Center School IEP is appropriate, and that A.M. has made progress, academically and socially, since joining the Center School. As to the progress made since he started, a time when she was not working at the school, Stadtmueller relies on her review of the prior year's work binder and her conversations with colleagues as to "how he was" when he came to Center School.

Steven Barosi, Center School's psychologist, was present when A.M. arrived at the school in February 2025, and he provided testimony about A.M., then and now. Barosi also was qualified as an expert in clinical psychology and school psychology. Barosi confirmed that when A.M. started at Center School in February 2025 he greatly struggled with transitions and with work refusal. He recounted that A.M. would not participate in the school's daily morning meeting, instead moving to the far end of the room and at times hiding behind a desk. He recalled that anytime there was a transition outside the classroom there would be a large protest from A.M. There were also outbursts from A.M. and some property destruction, such as throwing chairs. Crisis management and intervention was required for A.M. in his first year at Center School. Barosi explained that the outbursts would last five to ten minutes, and that A.M. needed that time and some space to become emotionally regulated. Barosi would be in physical proximity of A.M. and ask A.M. to advise him when he was ready to move on with the day. Usually, A.M. would calm down and then eventually do the activity that was requested of him. Barosi acknowledged that A.M. also was struggling to meet the academic expectations placed on him by his teacher, and that also affected his behavior.

Over time, A.M.'s protests diminished in intensity and frequency, though there are still protests for non-preferred behavior or when transitioning from preferred behavior, such as the computer, to the next academic activity. A.M. tends to be argumentative now more than have outbursts. Barosi believes that over time A.M. came to trust the school staff and learn how to advocate for the space he sometimes needed. Barosi currently provides counseling to A.M. once a week.

Barosi provided his professional opinion that the class size at Center School has a positive impact on A.M.'s education because it is a less socially demanding environment than Metuchen. However, Barosi volunteered that as A.M. progresses, he may be able to function in a larger class size. On cross-examination, Barosi admitted that he was unaware of any studies linking class size to progress. Bonassisa testified that under the January 31, 2025, IEP, A.M. would have been in a small group similar to that at the Center School for ELA, and had the benefit of daily OG services, which he did not receive at the Center School. Metuchen also had an in-house school psychologist, and their behavioral

program allowed for daily check-ins. Additionally, Metuchen offered therapeutic services through the NEST program, which were rejected by L.M. Barosi testified that the Center School did not offer any therapeutic services. Overall, Bonassisa maintained that Metuchen had more resources to offer A.M. than the Center School. These resources would have been available immediately to A.M. had L.M. agreed to consent to the June 2024 IEP, especially with the understanding that they were to reconvene to revise the IEP once the neurologist's report had been received.

#### The May 29, 2025, IEP

On May 29, 2025, the Metuchen CST held an IEP meeting with L.M. and counsel present. R-128. The IEP developed that day offered in-class resource for math, science, and social studies; pull-out resource replacement for ELA; individual counseling two times per six-day cycle for thirty minutes each time; group OT three times a month plus once a month OT consultation; and ESY with related services. The BIP was also updated and NEST services for therapeutic services for A.M. were also offered again. Metuchen did not agree to A.M.'s placement at the Center School, finding that it could offer him greater instructional time within the district and provide this in the least restrictive environment. A.M.'s parents did not consent to the May 29, 2025, IEP.

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

A.M. is a fourth-grade student who resides with his parent L.M. and siblings in the Metuchen School District. A.M. started school in Metuchen for first grade during the 2022–2023 school year and attended Campbell School. A.M. enjoyed a successful first-grade year, and met all academic grade-level requirements. Towards the end of first grade A.M. started exhibiting negative self-talk, and L.M. had him start seeing a private licensed professional counselor. Based on the counselor's recommendations, L.M. requested that A.M. be placed with a teacher with a positive class-management approach and who would be sensitive to A.M.'s anxiety about school. Metuchen honored L.M.'s request and placed A.M. with Ms. Santasieri. L.M. was familiar with Santasieri and happy

about the placement. There is no proof or indication that A.M. needed to be evaluated for special education services in first grade.

A.M. started second grade in September 2023. Early into the school year Santasieri noticed behavioral issues with A.M. including inattention, failure to follow directions, and speaking out of turn in class. She notified L.M. and kept her apprised of the situations in class via consistent and detailed email communications. Santasieri implemented a behavior plan for A.M. based on rewards for following directions. When that plan proved ineffective, she modified the plan. However, A.M. was not consistently following any of the plans and his behavior continued to be a problem in class. On December 8, 2024, with the parent's consent, Santasieri referred A.M. to the I&RS for behavioral issues only. No academic problems were identified by Santasieri on the referral form, and at the time, A.M. was meeting grade-level standards.

A.M. was considered for I&RS services on January 23, 2024, which was the next scheduled meeting. The parents had the opportunity to provide input to the I&RS committee both in writing and through a telephone interview. The I&RS approved A.M., and a summary and plan was developed for A.M. that involved a reward system for completion of tasks through use of a token board and use of verbal positive reinforcement for completion.

In a letter dated February 12, 2024, A.M.'s pediatrician, Dr. Gavai, diagnosed him with ADHD and recommended that A.M. be provided accommodations at school under Section 504 based on this diagnosis. On February 14, 2024, L.M. forwarded Dr. Gavai's letter to Metuchen as an attachment to a detailed email. The email specifically noted that the parents were writing to refer A.M. for assessment to determine eligibility for special education services under the IDEA and/or Section 504. This email was the parents' referral for the CST to seek evaluation under the IDEA while also seeking Section 504 accommodations under Section 504 as recommended by Dr. Gavai.

Metuchen misunderstood this to be a referral for Section 504 services based on Dr. Gavai's letter, and promptly scheduled a meeting with the 504 committee. On February 26, 2024, when L.M. emailed again to inquire about the CST referral, Metuchen

became aware that it had misunderstood the initial email. Metuchen held the initial identification and evaluation meeting with the CST on March 8, 2024, which was twenty-two days after the February 14, 2024, email. There was no substantive loss to A.M. from the two-day delay. A March 6, 2024, letter from the parents provided detailed input to the CST about their concerns and the services they thought appropriate for A.M. including a neurodevelopmental/psychological evaluation, an educational evaluation, and an FBA. At the time, a private neurodevelopmental evaluation had been scheduled for May 20, 2024, at CHOP.

At the March 8, 2024, identification and evaluation meeting, the CST and parents met, and agreed to move forward with evaluations, including educational, neurological, social, and psychological evaluations. At that time, A.M. had been diagnosed with ADHD, and his behavior issues included talking out during class, failing to follow directions, and not completing his work in class. The CST did not agree to the FBA but agreed to the other evaluations sought by the parents, plus more. On March 11, 2024, L.M. provided consent for the evaluations to move forward.

On March 19, 2024, the Section 504 committee met and found A.M. eligible for Section 504 accommodations. The parent presented information for the committee's consideration prior to the meeting, including a list of accommodations suggested by A.M.'s private counselor. The 504 plan was implemented in April 2024 that included almost all of those counselor recommendations and added more. Thus, a 504 plan with accommodations remained in place while A.M. was being evaluated for special education availability. The process by which the Metuchen addressed A.M.'s needs, first with an I&RS plan to address specific behavioral issues, followed by a Section 504 plan and IEP consideration when they became aware of his ADHD diagnosis, was appropriate.

All of the evaluations except the neurology evaluation were conducted in May 2024, and an IEP eligibility meeting was scheduled for June 4, 2024. Prior to the meeting the parents provided additional information they wished the CST to consider, including an initial neurodevelopmental consultation done at CHOP, all of which were considered by the CST. At the meeting, A.M. was found eligible for special education services under the classification of "other health impairment," and an IEP was developed that same day.

The IEP considered A.M.'s academic functioning in school at the time and offered in-class resources for A.M. for his four core subjects. A.M. was at grade level based on assessments conducted, meaning he was, at that time, able to access his education despite his behavioral issues. An ESY was also offered for the summer. The IEP offered related services including OT to address his fine-motor-skills weakness, as evidenced in his handwriting. School-based counseling was also offered once every six days and Social Group participation was included throughout the year. Notably, once the neurologist's report was received, the CST needed to reconvene to address the neurologist's findings and make adjustments as necessary to the IEP.

L.M. did not consent to the June 4, 2024, IEP but wanted the ESY services. Metuchen created an interim IEP, dated June 26, 2024, that respected those wishes so A.M. could have access to ESY services that summer, including to OG services with the reading specialist

On July 31, 2024, another IEP meeting was convened to address the neurologist's report that had been received just two weeks prior. The neurologist diagnosed A.M. with ADHD, dyslexia/dysgraphia, and pragmatic/social communication disorder, and made educational recommendations, some of which were already being implemented as part of the 504 plan. Others, including OG reading services, were added to the IEP developed on July 31, 2024. L.M. provided input to the CST prior to the IEP meeting and requested an FBA and a speech-language evaluation. Metuchen considered the requests and agreed to the FBA. An updated IEP was sent on August 6, 2024, that reflected the FBA and some other changes to language. L.M. did not consent to the July 31, 2024, IEP. Rather, she sent a detailed August 19, 2024, letter that identified all of the changes to the IEP she wanted and demanded that Metuchen advise her as to the basis for any language or other changes they did not adopt. Most of the changes sought were to add information from the reports. Metuchen tried to address L.M.'s concerns in a telephone conference on August 28, 2024, which resulted in an August 28, 2024, IEP. L.M. did not consent to August 28, 2024, IEP. The quantum of communications between Metuchen and L.M. from prior to the June 2024 IEP through the summer, when school was closed, were substantial.

A.M. started third grade without an IEP and the services provided under the IEP, including school-based counseling and the recommended OG reading services. Again, since an FBA was to be conducted, there was another IEP meeting planned to discuss the FBA and revise the IEP as needed to reflect the BCBA's findings. Assessments conducted in September 2024 found A.M. to be at grade level.

An October 1, 2024, IEP meeting was held to discuss the FBA and develop a new IEP. Over three hours, the CST and L.M. discussed the new information they had from the BCBA about A.M.'s behavioral condition, the BIP she developed, and every issue and concern raised by L.M., including her request for a S/L evaluation. Metuchen agreed to the S/L evaluation. Metuchen also offered NEST services, which were therapeutic mental-health services available in school on an as-needed basis through Rutgers Behavioral Health. L.M. rejected the NEST services offered and did not consent to the IEP developed on October 1, 2024. A.M. continued to receive accommodations under the 504 plan.

At this point, L.M. had been offered four draft IEPs, each which appropriately addressed the educational needs of A.M. at the time they were developed and provided related services to address his behavioral and other needs through counseling and OT services. However, L.M. did not consent to any of the IEPs. As a result, A.M. had not been able to access the full special education services and resources Metuchen offered under the IEP.

In October 2024, the S/L evaluation was conducted by Eric Stein, a speech-language pathologist. Based on his evaluation, Stein provided his expert opinion that A.M. did not need speech-pathology services. Stein based his opinion on the testing of A.M. that he conducted, which found A.M. in the average to low-average range, his discussions with A.M.'s teachers, and the observations he made of A.M. in social situations at school. I found Stein's testimony credible, candid, and clear.

I did not find the testimony of Marisa Brunner, the speech-language expert proffered by L.M., to be as persuasive or helpful. Although her testing found that A.M. was average to low average range, she based the brunt of her report on the BRIEF, a

survey of executive functioning that was based on the perceptions of L.M., and the one teacher who completed it. Additionally, the observation she conducted of A.M. took place at Center School in his classroom with his two other classmates and the teacher present. Brunner's findings regarding A.M. were not supported by the information in her own report nor on the same level as the observations conducted of A.M. in unrestricted social settings by Stein.

On November 12, 2024, L.M. consented to the October 1, 2024, IEP. However, within three weeks, or by December 8, 2024, L.M. looked into unilateral placement at Center School. From November 2024 through mid-January 2025 A.M.'s behavior escalated, requiring two risk assessments and crisis intervention. On January 15, 2025, L.M. provided notice to Metuchen of her intent to unilaterally change A.M.'s placement to the Center School.

A.M.'s last day of school at Campbell School was January 30, 2025. From the date of the IEP implementation to January 30, 2025, of fifty potential school days, A.M. was absent for ten days. He was either late to school or left early on eleven other occasions. At the October 1, 2024, IEP meeting, the BCBA relayed her observation that on the day A.M. came in late to school he refused to enter the classroom and sat in the hallway yelling, and that it took two teachers thirty-five minutes to convince him to come to class. The behavioral disturbances continued further into that day. However, on the day that A.M. arrived to school on time, the BCBA observed that he did not experience the same behavioral issues with transitions or outbursts.

A January 31, 2025, IEP meeting was held with the CST and parents. Metuchen had the resources to provide A.M. with the special education services he needed, including additional instructional time, and the necessary related services to support A.M. The IEP offered in-class resources for math, social studies, and science but a small out-of-class group for ELA, and an additional day of counseling to A.M. OT and NEST services continued to be offered, along with the BIP in place. L.M. did not consent to the January 31, 2025, IEP.

A.M. started at Center School on February 10, 2025. Notably, Steven Barosi, the school psychologist, testified that L.M. did not have input into the services provided to A.M., noting, “we provide our own programming.” I found Barosi’s testimony to be credible and clear. He confirmed that A.M. engaged in the same behavior at Center School as evidenced in Metuchen: refusal to follow directions or complete work; outbursts; property disruption, including throwing chairs; and problems with transitions. Barosi had individual counseling and group counseling with A.M., and it took a long time for A.M. to get to where he is today.

Barosi and Maria Stadtmueller, A.M.’s current teacher, both confirmed that while A.M. still has difficulty with transitions, he is much improved. Stadtmueller explained that they use a reward system whereby A.M. gets “choice time” with his classmates at the end of the day if he does his work and participates in his daily activities. She provides graphic binders for his use in writing to assist him. Many of the strategies described by Stadtmueller and Barosi were the same recommended by the waterfall of IEPs developed by Metuchen. Each of these appropriate IEPs were not consented to by L.M., because they did not include information she required be present. In contrast, the April 7, 2025, IEP presented by Center School contains very little of the information that was previously demanded by L.M. from Metuchen. The Center School also allows A.M. to complete work at his own pace or reduces his work, which is academically less rigorous than the Metuchen program.

At every step of the process, whether for the Section 504 plan or for the IEP, the parents were permitted to provide input, including requests and recommendations, to Metuchen. Metuchen always considered the input and often accepted recommendations and granted the requests. Despite Metuchen’s agreements to the substantive request L.M. made, she often had one more change she wanted, one more edit to the IEP. Notably, L.M. did not pose these demands on the IEP team at the Center School, which as Barosi explained “did our own programming.” Ultimately, because L.M. refused to consent for five months to any of the appropriate IEPs presented by Metuchen, the school could not implement the IEPs and fully provide the necessary special education services to A.M. until November 12, 2024. L.M. further limited the availability of special education

services from Metuchen to A.M. by his ten absences and eleven occasions of partial school attendance over the fifty days the IEP was in place.

### **CONCLUSIONS OF LAW**

The issues raised by L.M.'s petition are whether Metuchen violated the IDEA's child-find requirements by not evaluating A.M. prior to second grade for eligibility for special education and related services, whether Metuchen failed to provide FAPE under the IDEA, and whether Metuchen violated Section 504 of the Rehabilitation Act by not providing accommodations to A.M.

State and federal laws require local public-school districts to identify, classify, and provide a free and appropriate public education to children with a qualifying disability(ies) who have a need for special education and related services. 20 U.S.C. § 1412; N.J.S.A. 18A:46-8, -9. The child-find obligation requires school districts to identify, locate, and evaluate students reasonably suspected of a disability under the IDEA and § 504 of the Rehabilitation Act within the district. Here, there was no indication or suspicion that A.M. needed any special education services in first grade. His report card and assessments all establish A.M. as performing academically at or above grade level. L.M. even described first grade as a good year for A.M. **I CONCLUDE** that A.M. did not need special education services in first grade, and thus that Metuchen did not violate its child-find obligation.

The IDEA also guarantees disabled children a FAPE designed to meet their unique needs. 20 U.S.C. § 1400(d)(1)(A). In New Jersey, N.J.A.C. 6A:14-1.1(b) ensures that students with disabilities receive a FAPE as defined under the IDEA.

The primary vehicle for providing disabled students with a FAPE is an IEP. 20 U.S.C. § 1414(d)(1)(A). Among other requirements, the IEP must include a "statement that specifies the projected date for the beginning of the services . . . , and the anticipated frequency, location, and duration of those services . . . ." N.J.A.C. 6A:14-3.7(e)(8). When selecting an appropriate placement, the first choice should be the least restrictive environment for the student. In other words, the placement should be provided in

appropriate educational settings as close to home as possible. N.J.A.C. 6A:14-4.2(a)(6). It should also be “based on his or her IEP.” N.J.A.C. 6A:14-4.2(a)(5).

In order to provide a FAPE under the IDEA, the Supreme Court found that “a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” Endrew F. v. Douglas Cnty. Sch. Dist., 580 U.S. 386, 399 (2017).

Here, at every step, Metuchen developed an IEP that addressed the needs that A.M. had at the time of development, taking into consideration the different diagnoses rendered by his medical providers. For example, in June 2024 A.M. had a diagnosis of ADHD from his pediatrician. By July 31, 2024, the neurologist provided a further diagnosis of dyslexia/dysgraphia and social pragmatic processing disorder. Each IEP took the diagnoses, the recommendations of providers, and the input of the parents. Metuchen agreed to all of the evaluations sought by the parents even if they were not agreed to at the exact time the parents sought them. The IEPs developed by Metuchen were appropriate for A.M. However, the parents refused to consent to any of the IEPs developed until November 12, 2024. I **CONCLUDE** that Metuchen’s IEPs were appropriate and designed to provide a FAPE to A.M. in the least restrictive environment, and I **FURTHER CONCLUDE** that a FAPE was provided to A.M. by Metuchen for the limited time from November 12, 2024, to January 30, 2025, that the parent consented to the IPE and while A.M. attended Campbell School. I **ALSO CONCLUDE** that the parent’s unilateral placement of A.M. in the Center School was, under the totality of the circumstances, unreasonable.

Petitioner also seeks compensatory education and tuition reimbursement from Metuchen. In order to receive compensatory education services, there must be a finding that Metuchen failed to provide FAPE. Carlisle Area Sch. v. Scott P., 62 F.3d 520, 537–38 (3d Cir. 1995), cert. den., 517 U.S. 1135 (1996). Generally, an inappropriate IEP, one that did not adequately meet a child’s needs, would form the underpinnings of a denial of FAPE and support a compensatory education award. Similarly, tuition reimbursement is appropriate where there has been a denial of FAPE. N.J.A.C. 6A:14-2.10. Having already concluded that there was no denial of a FAPE by Metuchen, I **FURTHER**

**CONCLUDE** that petitioner is not entitled to compensatory education or tuition reimbursement for the unilateral placement of A.M. at Center School.

Lastly, petitioner argues that Metuchen violated Section 504 of the Rehabilitation Act in failing to provide meaningful access to an education and providing reasonable accommodation to permit access to an education. Specifically, a school district must “reasonably accommodate the needs of the handicapped child so as to ensure meaningful participation in educational activities and meaningful access to educational benefits.” Ridley Sch. Dist. v. M.R., 680 F.3d 260, 280 (3d Cir. 2012). Metuchen developed a 504 summary and plan with the parent’s input, as well as that of A.M.’s private counselor. The 504 plan offered A.M. assistance in many ways, including by offering verbal instructions, breaking down and repeating instructions, breaks, extended time to complete assessments, private space, the ability to relocate when uncomfortable, and supplementary aids. Metuchen made every effort to provide accommodation to A.M. based on his disability with the 504 plan, which remained in place from April 2024 forward. The provision of FAPE by a school district is dispositive of claims under both the IDEA and FAPE. D.K. v. Abington Sch. Dist., 696 F.3d 233, 254 (3d Cir. 2012). Having concluded that A.M. was provided a FAPE by Metuchen, I **CONCLUDE**, similarly, that there was no Section 504 violation by Metuchen.

### **ORDER**

Based on my findings of fact and conclusions of law, I **ORDER** that petitioner’s due process petition is hereby dismissed with prejudice.

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.

April 13, 2026 \_\_\_\_\_

DATE

 \_\_\_\_\_

**GAURI SHIRALI SHAH, ALJ**

Date Received at Agency:

\_\_\_\_\_

Date E-Mailed to Parties:

\_\_\_\_\_

GSS/nn

**APPENDIX**

**Witnesses**

**For petitioner:**

L.M.  
Maria Stadtmueller  
Steven Barosi  
Marisa Brunner

**For respondent:**

Deanne Bonassisa  
Eric Stein

**Exhibits**

**For petitioner:**

- P-1 NICHQ Vanderbilt Assessment Scale – TEACHERS
- P-2 NICHQ Vanderbilt Assessment Scale – PARENTS
- P-3 Consultation Note Diagnosis app't
- P-4 504 Committee – Parent Input
- P-5 AML 504 Referral Form completed
- P-6 Abram CST evaluation letter
- P-7 Meeting Attendance Sign-in Sheet
- P-8 Abrams Frustration
- P-9 Fwd Abram
- P-10 Abram Initial CSH report
- P-11 Correspondence re records request 5.29–7.26
- P-12 Email re Hsu attendance
- P-13 Email with placeholder report card
- P-14 Abram CST eligibility letter
- P-15 Email with IEP Draft #1 after 2024.06.06 meeting and Attendance Sheet
- P-16 Email correspondence re failure to accommodate during GT testing

- P-17 Dr. Amorapanth report
- P-18 Emails re Draft IEP for ESY with Draft IEP #2 after 2024.06.06 meeting
- P-19 Email with Draft IEP #3 after 2024.07.31 meeting
- P-20 Emails 2024.07.15 to 2024.08.05 with IEP Draft #4
- P-21 Email with Draft IEP #5
- P-22 Emails with case manager re IEP 8.19-8.29 and Parental Input to draft IEP #5
- P-23 Emails with case manager re follow-up to conversation re amending draft IEP 8.29-9.4 with IEP Draft #6 sent 2024.08.29
- P-24 Emails with teachers re Abram difficulty with assignment and writing
- P-25 2024-2025 Campbell School Schedule
- P-26 Homework - Writing
- P-27 Email with teachers re Abram difficulty with assignment and writing
- P-28 IEP updates Meeting with response
- P-29 Email with case manager re FBA and OG timing and reports
- P-30 Email with case manager re IEP 9.10–9.17
- P-31 Emails with school re 9.16.2024, incident
- P-32 Emails re 9.18 incident
- P-33 Emails with case manager re OG and FBA assessments, misc. 9.19.24, to 9.27.24
- P-34 Email re questions
- P-35 Emails with Dr. Costanza (principal) re records request 9.24.24 to 10.1.24
- P-36 AM-L notes from guidance counselor
- P-37 Email with case manager re FBA and OG
- P-38 Assignments and Agenda
- P-39 Letter to I. Machado
- P-40 Work Refusal Fwd Abram Michaels Lamorte Spanish class
- P-41 Multiplication Vocabulary Match
- P-42 Final IEP – consent 2024.11.11
- P-43 Consent to Implement Initial IEP
- P-44 Phonics Sorts
- P-45 Kleen Zuba
- P-46 Pre-Acceptance emails between LM and The Center School

- P-47 Clearance attachment (Wallflower Group)
- P-48 Clearance
- P-49 CSH Hsu
- P-50 Clearance Letter and Summary
- P-51 Abram ELA
- P-52 NEST Information
- P-53 NEST Information attachment
- P-54 Beyond Communication Contracts
- P-55 Clearance Letter and Summary
- P-56 Notes from call
- P-57 NEST
- P-58 Authorization for Use or Disclosure of Health Information and Student Records – Kole
- P-59 Therapist consent
- P-60 Incident notes
- P-61 Policy (Metuchen District Policy 5350 – Student Suicide Prevention)
- P-62 Clearance and meeting
- P-63 Abram Holiday Party
- P-64 Abram This Afternoon reply
- P-65 Additional assessments
- P-66 Observation and additional assessments
- P-67 Abram today escalation
- P-68 AML Records Request
- P-69 Email from Zuba to Kleen
- P-70 Beyond Communication follow up
- P-71 Zuba to Kleen re Beyond Communication
- P-72 Email Abrams Morning
- P-73 Email from Zuba to Kleen
- P-74 Email from Kleen to Zuba with data sheets
- P-75 Letter from J. Kleen
- P-76 Draft IEP
- P-77 IEP and rejected request
- P-78 Letter from J. Kleen enc records

- P-79 Consent to psychiatric eval
- P-80 Email re meeting with MBOE and Center School
- P-81 Original Psychiatric
- P-82 Email with psychiatric response
- P-83 Beyond Communication Case History Form
- P-84 Marisa Brunner CV
- P-85 ASHA Scope of Practice in Speech-Language Pathology
- P-86 Beyond Communication Observation at Center School
- P-87 Maria E. Stadtmueller CV
- P-88 Steven A. Barosi CV
- P-89 Social, Emotional, and Behavioral Summary
- P-90 Center School Records
- P-91 Acceptance Documents
- P-92 Student Handbook
- P-93 Email re Abram Concerns Today
- P-94 Email re Abram Sleep
- P-95 Email re Touching Base
- P-96 Email re Good Week for Abram!
- P-97 Email from LM to Dr. Riera attaching documents
- P-98 Emails re Follow up questions from Abram observation
- P-99 Email re Shared Student – CSH OT to Hsu re release
- P-100 DSM-5 Excerpts
- P-101 First Grade Communications
- P-102 I&RS 504 and CST Communications
- P-103 Emails re records and information
- P-104 Articles
- P-105 Recording: MBOE IEP meeting
- P-106 Recording: MBOE IEP Meeting
- P-107 Recording: Center School IEP Meeting
- P-108 Recording: MBOE and Center School Call

For respondent:

- R-1 2022-2023 First-Grade DIBELS

- R-2 2022-2023 First Grade Report Card
- R-3 2022-2023 i-Ready
- R-4 2022-2025 Nurse Visits
- R-5 2023\_8-1 Email Correspondence
- R-6 2023\_8-22 Email Correspondence
- R-7 2023\_9-26 Email Correspondence
- R-8 2023\_11-2 Email Correspondence
- R-9 2023\_11-13 Email Correspondence
- R-10 2023\_11-19 Email Correspondence
- R-11 2023\_11-19 Email Correspondence
- R-12 2023\_11-20 Email Correspondence
- R-13 2023\_11-21 Email Correspondence
- R-14 2023\_11-22 Email Correspondence
- R-15 2023\_12-8 Email Correspondence
- R-16 2023\_12-8 Email Correspondence
- R-17 2023\_12-8 I&RS Request for Assistance
- R-18 2023-2024 Second Grade Report Card
- R-19 2023-2024 Second Grade Work Samples
- R-20 2023-2024 i-Ready-Historical Results
- R-21 2024 Incident Report
- R-22 2024\_1-5 Email Correspondence
- R-23 2024\_1-10 Email Correspondence
- R-24 2024\_1-3 Speech Consent
- R-25 2024\_1-16 Parent Questionnaire
- R-26 2024\_1-23 I&RS Meeting Summary and Action Plan
- R-27 2024\_1-23 I&RS 504 Agenda
- R-28 2024\_2-12 Doctor Letter
- R-29 2024\_2-14 Email Correspondence
- R-30 2024\_2-26 Email Correspondence
- R-31 2024\_2-29 Letter from Crossroads counseling
- R-3. 2024\_3-1 Second Grade Assessments
- R-33 2024\_3-4 Meeting Invitation
- R-34 2024\_3-5 Parent Invite for Initial 504 Determination Meeting

- R-35 2024\_3-5 I&RS Teacher Information Collection Form
- R-36 2024\_3-11 Consent Initial Evaluations
- R-37 2024\_3-19 I&RS Follow up meeting summary
- R-38 2024\_4-12 504 Plan
- R-39 2024\_4-26 Social History
- R-40 2024\_5-15 Eligibility Meeting Invitation
- R-41 2024\_5-15 OT Evaluation
- R-42 2024\_5-16 Psychological Report
- R-43 2024\_5-21 Educational Evaluation
- R-44 2024\_5-29 Records Request
- R-45 2024\_5-29 Draft IEP
- R-46 2024\_6-6 IEP
- R-47 2024\_6-6 Written Notice
- R-48 2024\_6-12 Neurodevelopmental Evaluation
- R-49 2024\_7-14 Outside OT Evaluation
- R-50 2024\_8-19 Response to Draft IEP
- R-51 2024\_9-4 response to Proposed IEP
- R-52 2024\_9-11 OG Assessment
- R-53 2024\_9-13 FBA
- R-54 2024\_9-16 BIP
- R-55 2024\_9-24 Neurodevelopmental Follow up
- R-56 2024\_9-30 Invitation for Initial Eligibility Determination and consent
- R-57 2024\_10-1 Initial Eligibility Meeting with IEP
- R-58. 2024\_10-2 Email Correspondence
- R-59 2024\_10-2 Email Correspondence
- R-60 2024\_10-2 Email Correspondence
- R-61 2024\_10-4 Email Correspondence
- R-62 2024\_10-8 Email Correspondence
- R-63 2024\_10-10 CELF5
- R-64 2024\_10-10 Email Correspondence
- R-65 2024\_10-11 Email Correspondence
- R-66 2024\_10-11 Referral Record Incident Report
- R-67 2024\_10-17 Email Correspondence

- R-68 2024\_10-17 Email Correspondence
- R-69 2024\_10-18 Email Correspondence
- R-70 2024\_10-28 Speech Eval and Consent
- R-71 2024\_11-11 Email Correspondence
- R-72 2024\_11-13 Email Correspondence
- R-73 2024\_11-14 Email Correspondence
- R-74 2024\_11-18 Data Collection
- R-75 2024\_11-18 Email Correspondence
- R-76 2024\_11-18 Email Correspondence
- R-77 2024\_11-22 Email Correspondence
- R-78 2024\_11-25 Email Correspondence
- R-79 2024\_11-25 Email Correspondence
- R-80 2024\_11-25 Email Correspondence
- R-81 2024\_11-25 Email Correspondence
- R-82 2024\_12-11 Email Correspondence
- R-83 2024\_12-11 Email Correspondence
- R-84 2024\_12-11 Email Correspondence
- R-85 2024\_12-11 Referral Information for Parents
- R-86 2024\_12-11 Referral Record Incident Report
- R-87 2024\_12-12 Email Correspondence
- R-88 2024\_12-12 Safety Plan
- R-89 2024\_12-20 Conference Notes
- R-90 2024-2025 MP3 Report Card The Center School
- R-91 2024-2025 Third Grade Report Card
- R-92 2024-2025 Attendance
- R-93 2024-2025 Counseling Log
- R-94 2024-2025 Third Grade i-Ready for Families
- R-95 2024-2025 Third Grade Home Connect
- R-96 2024-2025 Third Grade i-Ready Math Historical
- R-97 2024-2025 i-Ready Math Personalized Instruction Summary
- R-98 2024-2025 Third Grade Work Samples
- R-99 Homework Not Complete
- R-100 Homework Retained

R-101 Refusal-Finished with Teachers  
R-102 Speech Notes  
R-103 2025 Current Work Samples  
R-104 2024-2025 OT Notes  
R-105 2024-2025 Schedule  
R-106 2024-2025 School District Calendar  
R-107 2025\_1-2 Brunner Comp Language Evaluation (Removed due to highlighting in report of unknown origin)  
R-107(1) Brunner Comp Language Evaluation  
R-108 2025\_1-3 Meeting Confirmation Form  
R-109 2025\_1-6 Behavior Plan Examples  
R-110 2025\_1-8 Release of Records  
R-111 2025\_1-13 Authorization  
R-112 2025\_1-13 Invitation for Initial Eligibility Determination meeting  
R-113 2025\_1-14 Referral  
R-114 2025\_1-15 Ten Day Notice  
R-115 2025\_1-16 Safety Plan  
R-116 2025\_1-17 Request for Additional Assessment  
R-117 2025\_1-22 Invitation to Assess Progress and Review or Revise IEP  
R-118 2025\_1-30 Progress Report  
R-119 2025\_1-31 Draft IEP provided to parents  
R-120 2025\_3-26 Psychiatric Evaluation  
R-121 2025\_4-7 Finalized IEP  
R-122 2025\_5-1 NJSLA testing  
R-123 2025\_5-2 Psychiatric Evaluation response  
R-124 Observation Request form  
R-125 2025\_5-14 Meeting Invitation  
R-126 2025\_5-15 CSH Visit Note  
R-127 2025\_5-21 Email Correspondence  
R-128 2025\_5-29 IEP  
R-129 Deneane Bonassisa CV  
R-130 Eric Stein CV

- R-131 A Cross-Lagged Analysis of Emotion Regulation, Peer Problems, and Emotional Problems in Children With and Without Early Language Difficulties: Evidence From the Millennium Cohort Study
- R-132 Executive function in children with disruptive mood dysregulation disorder compared to attention-deficit/hyperactivity disorder and oppositional defiant disorder in children with different irritability levels
- R-133 Far Transfer Effects of Trainings on Executive Functions in Neurodevelopmental Disorders: A Systematic Review and Metanalysis
- R-134 The Directionality of the Relationship Between Executive Functions and Language Skills: A Literature Review
- R-135 Executive Functioning Rating Scales: Ecologically Valid or Construct Invalid?
- R-136 Speech-Language Pathology Interventions for Children With Executive Function Deficits: A Systematic Literature Review