



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 20107-25

AGENCY DKT NO. 2026-40095

B.F. AND N.F. ON BEHALF OF L.F.,

Petitioners,

v.

WEST WINDSOR-PLAINSBORO REGIONAL

BOARD OF EDUCATION,

Respondent.

Daryl Kipnis, Esq., for petitioners (Kipnis Law Offices, attorneys)

Eric L. Harrison, Esq., for respondent (Methfessel & Werbel, attorneys)

Record Closed: March 13, 2026

Decided: March 30, 2026

BEFORE **NICOLE T. MINUTOLI**, ALJ:

STATEMENT OF THE CASE

B.F. and N.F. (petitioners) filed a due process petition on behalf of L.F., seeking classification of L.F. and an issuance of an Individualized Educational Plan (IEP), asserting that the West Windsor-Plainsboro Regional Board of Education (Board) failed to identify L.F. as a student who qualifies for special education and related services. Did respondent provide L.F. with a free and appropriate public education (FAPE) during the

2025–2026 school year? Yes. A district provides a FAPE when it provides for significant learning and confers a meaningful educational benefit, considering a student’s individual needs and potential. Andrew F. v. Douglas Cnty. Sch. Dist. RE-1, 580 U.S. 386 (2017).

PROCEDURAL HISTORY

On December 2, 2025, petitioners filed a due process petition. The parties participated in mediation on December 17, 2025, and January 30, 2026. Because the matter did not settle during mediation, the due process petition was transmitted by the Department of Education, Office of Special Education, to the Office of Administrative Law (OAL) on February 3, 2026, under N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, and the Special Education Program, N.J.A.C. 1:6A-1.1 to -18.5.

I held a prehearing conference call on February 6, 2026. Hearings were conducted on February 20 and February 26, 2026. Post-hearing summation briefs were submitted by the parties, and the record was closed as of the last submission date, March 13, 2026.

DISCUSSION AND FINDINGS OF FACT

Based upon 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 **FACTS**:

In February 2025, petitioners moved to New Jersey and registered their five-year-old son for kindergarten in the West Windsor-Plainsboro Regional School District (District) for the 2025–2026 school year and requested an evaluation with a child study team (CST). (R-22.) After their request, petitioners decided not to proceed with the evaluation at that time. Then, in April 2025, petitioners again requested an evaluation with a CST. (Ibid.) Upon request, the District attempted to schedule an in-person initial eligibility meeting on May 6, 2025, with L.F. present. However, petitioners requested a virtual meeting and would not agree to have L.F. participate. (R-22.)

On May 6, 2025, representatives from the District and petitioners met virtually to plan for L.F.'s educational kindergarten needs. L.F. was not present. The District and petitioners met in person in June 2025; this time, L.F. was present. During this meeting, L.F. was observed and evaluated. The CST administered the Battelle Development Inventory, Third Edition and Preschool Language Scales-5th Edition Screening tests while working with L.F. (R-11) Based on the screenings and observations, the CST did not recommend educational or psychological evaluations, and ultimately found that the student did not require special education services. (Ibid.) Petitioners did not agree with the District's decision.

On September 4, 2025, L.F. started kindergarten at J.V.B. Wicoff Elementary School (Wicoff) in the District. His teacher was Lindsay Mulshine. On September 5 and September 8, 2025, petitioners notified the District that L.F. was experiencing noise issues in the lunchroom and on the playground. In response, the District recommended that headphones be provided for L.F. to wear as needed. (R-22.) On September 9, 2025, petitioners requested a meeting with the CST, again to discuss evaluations for L.F. (R-8; R-22.) The District agreed (R-9) and scheduled a virtual meeting, as requested by petitioners, for September 29, 2025.¹ (R-3.)

During the September 29, 2025, meeting, petitioners shared that L.F. has a diagnosis of autism and attention deficit hyperactivity disorder, as well as sensory processing and emotional regulation issues. Petitioners stated that L.F. has said that he didn't want to go on the bus, didn't want to attend school because he didn't understand assignments and projects, and didn't know how to communicate that he was struggling. (R-11.) L.F.'s teacher, Lindsay Mulshine, found L.F. to be performing at an average kindergarten level. In math, L.F. performs above average, while in reading, L.F. performs in the average range. Mulshine found that, socially, L.F. is making friends, is happy to come to school, and isn't having issues communicating his feelings. Based upon the

¹ Persons in attendance included L.F.'s teacher, petitioners, the case manager, a learning disabilities teacher-consultant, a school social worker, a school psychologist, the supervisor of special services, an occupational therapist, and a speech-language specialist. (R-10.)

data, feedback from Mulshine, and information submitted by petitioners, the CST found that evaluations for special education were not warranted. (Ibid.)

Throughout October 2025, petitioners continued to email both Mulshine and Maureen Cook, the principal, stating that L.F. was refusing to get on the school bus in the mornings, not eating his lunch, had a scratch on his face, and would become upset when he left a toy at school. (R-22.) Each email was responded to and offered guidance and factual content. (Ibid.) Petitioners continued to request an IEP for L.F. because of his diagnosis and also requested “daily updates via email in regard to [L.F.’s] behavior so that [petitioners] know what to expect when [L.F.] comes home.” (Ibid.) Mulshine and Cook did not observe the issues petitioners claimed were occurring in the classroom, but still offered additional help to L.F., such as intermittent breaks and sensory toys. During Cook’s many conversations with L.F., he was always happy and said he liked school. Academically, L.F. was making meaningful progress.

Because petitioners continued to contend that L.F. would not get on the school bus in the morning, Mulshine and Cook went to L.F.’s school bus stop to see for themselves how L.F. was acting. On this one morning, Mulshine and Cook observed that L.F. was happy, jumping in puddles, and waiting for the bus. When the school bus arrived, L.F. got right on—no problems were observed. In October and November 2025, L.F.’s mother, N.F., began driving him to school and repeatedly called the Wicoff office from the parking lot, stating that L.F. was refusing to get out of the car. The District worked out a plan with the petitioners under which someone from the school would meet L.F. at the school building’s front door. Unfortunately, N.F. didn’t follow the plan and continued to drop L.F. off in the school parking lot without walking him into the school building.²

From September through November 2025, L.F. attended full-day school with few absences. (R-14.) However, his attendance declined. In December 2025, L.F. was in school for only one full day. (Ibid.) Even with the declining absences, L.F. was performing

² Petitioners emailed the District stating that once L.F. was on school grounds, i.e., the parking lot, it is the school’s responsibility to ensure his safety and to escort him into the school building. Petitioners were encouraged to contact Perform Care for L.F.’s behavior issues at home.

at an average level for a kindergartner, both academically and behaviorally. (R-15; R-16; R-17.)

In or about November 2025, petitioners engaged the services of behaviorist Ashley Gonzalez. (P-18.) Gonzalez met with L.F. at home two times, on November 25 and December 8, 2025. (P-16.) Gonzalez never observed L.F. in school nor met any District representatives or teachers. Based on her two home observations and input from petitioners, Gonzalez determined that L.F. had a fear of something in school, causing him to elope, and developed a behavior treatment plan for L.F., which included a “gradual exposure and duration-fading approach,” which “systematically increases [L.F.’s] tolerance for school attendance while minimizing distress and reducing the likelihood of behavior escalation.” (P-16.) Essentially, Gonzalez’s plan was to pull L.F. from school after only a few hours as a reward for entering the school building. (Ibid.)

Starting in January 2026, L.F. was not in school for a full day, was absent for seven days, and was removed from school by petitioners at 10:30 a.m. or earlier on eleven days.³ L.F. also began coming to school with a behavior therapist.⁴ The District became concerned that L.F. was missing so much school, because continued absences could lead to academic and social concerns. The District was attempting to schedule an in-person meeting with petitioners and Gonzalez to develop a plan for L.F. to attend full days of school.

On or about January 20, 2026, the District met with petitioners in person, but only virtually for Gonzalez, to discuss next steps for L.F. During this meeting, Gonzalez explained that L.F. feared something in the building but did not provide a clear, consistent explanation of how this fear led L.F. to leave school early every day. When probed, Gonzalez could not clarify what this fear was. Gonzalez never requested to speak with Mulshine or Cook, or to observe L.F. in the classroom.

³ L.F. was not dismissed early by the District for any behavior issues.

⁴ The behavior therapist works for and under the guidance of Gonzalez.

On January 21, 2026, Samantha Tognela, supervisor of special services at the District, sent an email to petitioners requesting a meeting with Gonzalez and the District's behaviorist, Dr. Jessica D'Orazio. Tognela also provided a structured morning drop-off procedure for L.F. Gonzalez then requested that the District develop a functional behavior assessment for L.F. At this time, the District did not believe a functional behavior assessment to get L.F. into the building was required. Tognela explained that a functional behavior assessment is used when behavior is extreme, with a clear understanding of why it is occurring, so the environment can be shaped and a desire to extinguish the behavior can be developed. Tognela stated that even though petitioners reported maladaptive behaviors, such as eloping, tantrums, creating danger, and refusing to go to school, there was no evidence from school staff that, while on school property, L.F. had difficulty transitioning and entering the school when N.F. wasn't present.

Tognela explained that there is no data indicating that L.F.'s disability is adversely impacting his education, and he does not require specialized instruction for his disability. The data and information show that L.F. is able to follow instructions in the kindergarten general education classroom, understand the task, and proceed with it.

Video evidence was presented by petitioners showing L.F. throwing a tantrum in the car and his difficulty completing a worksheet.

CONCLUSIONS OF LAW

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

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

N.J.A.C. 6A:14-1.1(d). School districts have an affirmative and continuing obligation to identify and evaluate students who are reasonably suspected of having a disability under the IDEA and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. This responsibility is known as a district's "child find" obligation. See D.K. v. Abington Sch. Dist., 696 F.3d 233, 249 (3d Cir. 2012); 20 U.S.C. § 1412(a)(3). Each district must develop written procedures to identify students who may have a disability due to "physical, sensory, emotional, communication, cognitive, or social difficulties." N.J.A.C. 6A:14-3.3(a). These procedures must include evaluation measures to determine a student's eligibility for special education and related services. N.J.A.C. 6A:14-3.3(a)(3)(iii).

Eligibility for Special Education and Related Services

The IDEA sets up a three-part test to determine eligibility for special education and related services: (1) the student must have one or more of the disabilities defined in N.J.A.C. 6A:14-3.5(c)(1)–(14); (2) the disability must adversely affect the student's educational performance; and (3) the student must need special education and related services. H.M. v. Haddon Heights Bd. of Educ., 822 F. Supp. 2d 439, 450 (D.N.J. 2011).

All three criteria must be met to be eligible for an IEP. Here, petitioners assert that L.F. is eligible for special education due to his diagnosis of autism and attention deficit hyperactivity disorder, as well as sensory processing and emotional regulation issues. I disagree. The District presented credible evidence that L.F.'s presentation and screening in the spring of 2025 did not warrant evaluation for potential special education services. Neither L.F.'s behavior upon initial screening nor any of the documentation provided by the parents gave the District reason to believe that L.F.'s disability threatened to adversely affect his educational performance or that he required special education and related services. L.F.'s first trimester report card showed that L.F. was meeting expectations in all areas for a child his age. Mulshine testified that L.F.'s academic performance and behavior in school were within the average range for a general education kindergartner. Further, Tognela testified that L.F. is not eligible for special education and related services, nor does his performance warrant evaluation.

The petitioners presented no competent evidence to the contrary. Gonzalez failed to provide any evidence that L.F.'s disability is adversely affecting his academic performance. In fact, Gonzalez never spoke to L.F.'s teacher nor observed L.F. in the classroom. There was no credible evidence presented that L.F. had difficulty attending a full day of school or riding the bus to and from school. The video evidence presented by petitioners did not persuade me otherwise. Even with a diagnosis of autism and attention deficit hyperactivity disorder, L.F. did not suffer an educational impact and, therefore, did not qualify for special education and related services.

I **CONCLUDE** that the respondent met its burden to establish that L.F. was not eligible for special education and related services because he did not suffer an educational impact.

ORDER

Based upon the foregoing, it is **ORDERED** that petitioners' due process petition is **DISMISSED**.

This decision is final pursuant to 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2025) 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 (2025). 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.

March 30, 2026

DATE



NICOLE T. MINUTOLI, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

NTM/tc

APPENDIX

Witnesses

For Petitioners:

N.F.

B.F.

Ashley Gonzalez, BCBA

For Respondent:

Samantha Tognela, supervisor of Special Services

Lindsay Mulshine, teacher

Maureen Cook, principal

Exhibits

For Petitioners:

- P-1 Not entered into evidence
- P-2 Not entered into evidence
- P-3 Not entered into evidence
- P-4 Problem Behavior Questionnaire
- P-5 Not entered into evidence
- P-6 Permission to discuss information
- P-7 Not entered into evidence
- P-8 Not entered into evidence
- P-9 Not entered into evidence
- P-10 Not entered into evidence
- P-11 Colorful Minds ABA
- P-12 Not entered into evidence
- P-13 Parent handwritten notes
- P-14 Landacorp General Health
- P-15 Emails from January 2026

- P-16 Behavioral Treatment Plan
- P-17 Handwritten notes and attendance report
- P-18 CV of Ashley Gonzalez
- P-19 Videos

For Respondent:

- R-1 Not entered into evidence
- R-2 Not entered into evidence
- R-3 September 15, 2025, correspondence
- R-4 April 7, 2025, parent letter
- R-5 May 7, 2025, determination letter
- R-6 June 6, 2025, meeting attendance record
- R-7 June 6, 2025, determination letter
- R-8 September 9, 2025, parent letter
- R-9 September 10, 2025, Tognela letter
- R-10 September 29, 2025, meeting attendance record
- R-11 September 29, 2025, determination letter
- R-12 Not entered into evidence
- R-13 Not entered into evidence
- R-14 2025–2026 attendance calendar
- R-15 2025–2026 first trimester report card
- R-16 MAP assessments
- R-17 Literacy assessments
- R-18 Timeline of events
- R-19 CV of Maureen Cook
- R-20 CV of Lindsay C. Mulshine
- R-21 CV of Samantha Tognela
- R-22 emails between petitioners and respondent