State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION
MOTION TO DISMISS

O.G. OBO M.J.,
Petitioner,
v.
LIVINGSTON TOWNSHIP BOARD OF EDUCATION,
Respondent.

OAL DKT. NO. EDS 21275-25
AGENCY DKT. NO. 2026-40152

O.G. obo M.J. Petitioners, appearing *pro se*

Christine Martinez, Esq., for respondent, Livingston Township Board of Education, (Machado Law Group, attorneys)

BEFORE **JULIO C. MOREJON,** ALJ:

Record Closed: February 23, 2026 Decided: March 3, 2026

STATEMENT OF THE CASE

Petitioner brings a due process petition against Respondent, Livingston Board of Education (Board), claiming procedural and substantive violations of the IDEA, Section 504, and N.J.A.C. 6A:14 resulting in unlawful removal of M.J. from school, denial of access to education, coercive practices, failure to follow IDEA safeguards, emotional harm to M.J, and denial of FAPE, when M.J. was required to obtain medical clearance to return to school due to concerns about suicidal ideation.

PROCEDURAL HISTORY

On December 11, 2025, Petitioner O.G., obo M.J.,(Petitioner) filed a due process petition with the Department of Education, Office of Special Education (OSE), alleging that the removal of M.J. amounted to procedural and substantive violations of the IDEA, Section 504, and N.J.A.C. 6A:14. As relief, Petitioner requests findings of procedural and substantive violations, correction and/or removal of inaccurate records, compensatory education, mandatory staff training, and assurances of non-retaliation.

On December 19, 2025, the Board filed a motion to dismiss in lieu of an answer with OSE. On December 21, 2025, Petitioner filed her opposition. On December 29, 2025, the Board filed its reply. On January 22, 2026, mediation was held; the matter did not settle and was transmitted to the Office of Administrative Law (OAL) as a contested case.

On February 2, 2026, a status conference was scheduled and held. Petitioner did not appear. The school Board requested to proceed with the motion to dismiss. On February 19, 2026, a second status conference was held, where Petitioner appeared and affirmed that M.J. had been disenrolled from the Board and that she wished to proceed with the due process petition. The record closed February 23, 2026, when Petitioner provided the tribunal with a copy of her opposition to the motion.

The Board's motion seeks dismissal of the petition as follows:

1. The allegation and relief sought regarding the requirement that M.J. receive medical clearance prior to returning to school must be dismissed for lack of jurisdiction.
2. The requirement for medical clearance following the reported suicidal ideation was both lawful and appropriate.
3. The Board complied with all requirements concerning a student with a disability and there was no "denial of access to education."
4. Any request under FERPA for changes to student records are beyond the scope of this tribunal.

Petitioner's opposition to the motion focuses on the following arguments:

1. A motion to dismiss may be granted only if, accepting all allegations as true, the Petitioner is not entitled to relief under any set of facts.
2. Dismissal is disfavored in IDEA cases where factual development is required to assess procedural compliance and denial of FAPE.
3. An informal removal occurs when a Board bars a student from attending school without formally invoking suspension or expulsion procedures. Conditioning a student's return on psychiatric clearance constitutes such a removal.
4. NJDOE guidance (Feb. 8, 2023) explicitly recognizes that exclusions pending psychiatric clearance are disciplinary removals subject to IDEA protections, including PWN, parental participation, and placement protections.
5. Withdrawal of M.J. does not make moot claims seeking compensatory education, record correction, or declaratory relief for past IDEA violations.
6. Conditioning return on medical clearance constitutes a change in placement. A change in placement triggers IDEA procedural safeguards, none of which were followed.
7. The absence of an IEP meeting or PWN alone states a viable claim. Respondent admits: No PWN was issued; No IEP meeting occurred prior to exclusion and Parent was pressured under distress
8. Procedural violations that significantly impede parental participation or deprive educational benefit constitute denial of FAPE.
9. While FERPA enforcement may lie elsewhere, inaccurate records and attendance marking directly affect educational placement, discipline, and services. Such claims are properly considered in IDEA proceedings where they relate to denial of FAPE or procedural harm.

The Board filed a reply to Petitioner's opposition addressing the legal arguments made therein.

FACTUAL SUMMARY

Following a review of the briefs and submissions of the parties in this action and parsing the salient facts of the case that are undisputed, I **FIND** the **FOLLOWING** as **FACT** herein:

1. M.J. is a fourteen-year-old child who previously attended the Livingston Public School Board. See the Certification of Dr. Maura Tuite ("Tuite Cert.") at ¶3.
2. Prior to Petitioner's withdrawal of M.J. from the Livingston Public School Board on December 4, 2025, M.J. had been found eligible for special education and related services under the classification of Multiple Disabilities. See Tuite Cert. at ¶4.
3. Upon information and belief, M.J. has been diagnosed with Attention Deficit Hyperactivity Disorder and Mild Intellectual Disability. See Tuite Cert. at ¶5.
4. On or about November 18, 2025, two students shared with a school counselor that they had concerns about M.J. as he had said the day prior that he was going to go home and kill himself. See Tuite Cert. at ¶6.
5. M.J. did not attend school on November 18, 2025. See Tuite Cert. at ¶7; See also the 2025-2026 Attendance Record through December 3, 2025, attached as Exhibit A to the Tuite Cert.
6. During a call with Petitioner to verify M.J.'s absence on November 18, 2025, Petitioner advised that she was taking M.J. to the doctor for an x-ray because M.J. claimed that he fell and hit his head in gym class the week prior and started to have pain in the bridge of his nose. See Tuite Cert. at ¶8. M.J.'s physical education teacher received no reports about M.J. falling in gym class the week prior. Id.
7. On November 18, 2025, the Board also advised Petitioner of the concerns regarding M.J. and suicidal ideation. See Tuite Cert. at ¶9. During the telephone call with Petitioner, M.J. denied making any comments about dying in real life and said that the other students must have overheard him talking about dying in a video game. Id. The school counselors recommended to Petitioner the possibility of PerformCare for additional assistance with M.J.'s mental health, and Petitioner stated that she would try to make another referral as M.J. previously had a therapist through PerformCare, but that M.J. had "graduated from the program". Id.

8. On November 19, 2025, M.J. returned to school and two school counselors conducted a preliminary risk assessment for M.J. During the conversation, M.J. again denied saying about suicide or about wanting to kill himself and was subsequently returned to class. See Tuite Cert. at ¶10.
9. On or about November 25, 2025, a third student brought a concern about M.J. to another school counselor and reported that over the weekend M.J. had posted a Snapchat story that he was feeling suicidal and that M.J. has reported that he was still feeling suicidal after the weekend. See Tuite Cert. at ¶11. The student was unable to provide a copy of the post as Snapchats disappear after a short period of time. Id.
10. On November 25, 2025, the Board advised Petitioner of the ongoing concerns regarding M.J. and suicidal ideations. See Tuite Cert. at ¶12.
11. On November 25, 2025, two school counselors again conducted a preliminary risk assessment with M.J. See Tuite Cert. at ¶13. During the conversation, M.J. again denied having any suicidal thoughts or feelings and denied posting anything on Snapchat about feeling that way. Id. M.J. also denied sharing suicidal thoughts with any other students. Id. The school counselors noted that M.J.'s affect suggested something was "off" and that he was feeling upset but would not share any additional information. Id.
12. Based on the multiple recent instances of students bringing concerns about M.J.'s mental health to the Board's attention, it was determined that it would be best for M.J.'s safety to require medical clearance before returning to school in accordance with Board Policy and Regulation 5350 and 8441. See Tuite Cert. at ¶14; See also Board Policy and Regulation 5350 and 8441, attached as Exhibit B to the Tuite Cert.
13. The Board attempted to speak with Petitioner over the phone about the situation and the need for medical clearance; however, Petitioner became seemingly upset y and hung up the phone. See Tuite Cert. at ¶15.
14. The Board again attempted to speak with Petitioner on the phone, and Petitioner said she would be there to pick up M.J. shortly. See Tuite Cert. at ¶16.
15. When Petitioner arrived shortly after 3PM to pick M.J. up, she was not open to having any discussion about next steps and appeared upset about having to come into the building to meet with the Assistant Principal. See Tuite Cert. at ¶17.

16. On November 25, 2025, Petitioner was provided correspondence with details regarding the psychiatric clearance requirement. See Tuite Cert. at ¶18; See also the Correspondence attached as Exhibit C to the Tuite Cert.
17. Petitioner signed the correspondence to acknowledge receipt. Id.
18. Almost immediately after picking M.J. up from school on November 25, 2025, Petitioner began sending numerous emails to various Board staff, which, among other things, stated that she was "revoking her consent" to the medical clearance, claimed that the Board had provided no proof that M.J. had expressed suicidal ideation, and stated that she would be returning M.J. to school the next day. See Tuite Cert. at ¶20; See also a sampling of the Email Correspondences attached as Exhibit D to the Tuite Cert.
19. Petitioner was advised that M.J. was not permitted to return to school without the medical clearance. See Tuite Cert. at ¶19; See also Exhibit D to the Tuite Cert.
20. Petitioner did not return M.J. to school on November 26, 2025. See Tuite Cert. at ¶22; See also Exhibit A to the Tuite Cert.
21. On December 1, 2025, Petitioner requested "an emergency IEP meeting" for M.J. See Tuite Cert. at ¶23; See also the Email Correspondence attached as Exhibit E to the Tuite Cert.
22. On December 4, 2025, at 10:16AM, the Board confirmed that an IEP meeting had been scheduled for December 5, 2025, at 10AM. See Tuite Cert. at ¶24. As Petitioner had not obtained the required medical clearance for M.J. to return to school, the Board also advised Petitioner that the Board would be filing for emergent relief for home instruction pending the results of the psychiatric clearance. Id.; See also the Email Correspondence attached as Exhibit E to the Tuite Cert.
23. On December 4, 2025, at 10:57AM, Petitioner withdrew M.J. from the Livingston Public School Board, effective immediately. See Tuite Cert. at ¶25; See also the Email Correspondence attached as Exhibit F to the Tuite Cert.
24. On December 4, 2025, at 11:27AM, Petitioner confirmed that she would attend the IEP meeting on December 5, 2025. See Tuite Cert. at ¶26; See also the Email Correspondence attached as Exhibit G to the Tuite Cert.
25. On December 4, 2025, at 7:07PM, Petitioner advised that she would not be attending the IEP meeting scheduled for December 5, 2025, as she had withdrawn M.J. from

the Livingston Public School Board. See Tuite Cert. at ¶27; See also the Email Correspondence attached as Exhibit H to the Tuite Cert.

26. On December 5, 2025, at 7:15AM, Petitioner again advised that she had withdrawn M.J. from the Livingston Public School Board and that Petitioner would be home schooling M.J. See Tuite Cert. at ¶28; See also the Email Correspondence attached as Exhibit I to the Tuite Cert.
27. Upon information and belief, Petitioner never obtained medical clearance for M.J. See Tuite Cert. at ¶29.
28. As a result of Petitioner withdrawing M.K. from school on December 4, 2025, the scheduled IEP meeting of December 5, 2025, did not occur. Petitioner's Statement of Facts,
29. Petitioner denied suicidal ideation during all interactions herein. Petitioner's Statement of Facts, at ¶4.
30. No Prior Written Notice (PWN), manifestation determination, or evaluation occurred before the Board determined that M.K. should not attend school. Petitioner's Statement of Facts, at ¶6.
31. Petitioner withdrew M.K. from the school Board on December 4, 2025. Petitioner's Statement of Facts, at ¶8.

LEGAL DISCUSSION AND CONCLUSION

The OAL may consider a motion to dismiss transmitted from the OSE.

The rules of procedure governing petitions of appeal filed with the Commissioner of Education (Commissioner) permit a respondent to submit a motion to dismiss in lieu of an answer "on the grounds that the petitioner has advanced no cause of action even if the petitioner's factual allegations are accepted as true or for lack of jurisdiction, failure to prosecute or other good reason." N.J.A.C. 6A:3-1.5(g) ("(g) Nothing in this section precludes the filing of a motion to dismiss in lieu of an answer to a petition, provided that such motion is filed within the time allotted for the filing of an answer. Briefing on such motions shall be in the manner and within the time fixed by the Commissioner, or by the ALJ if the motion is to be briefed following transmittal to the OAL."); N.J.A.C. 6A:3-1.10.

Administrative Law Judges may relax or disregard procedural rules if strict adherence would result in unfairness or injustice, except where statutory procedural requirements are implicated. N.J.A.C. 1:1-1.3. Accordingly, although no statute or regulation expressly authorizes the practice, the Office of Special Education has in the past transmitted motions to dismiss filed at the agency level to the OAL for consideration. See N.D. and M.D. o/b/o N.C. v. Vineland City BOE, OAL DKT. NO. EDS 13684-23, 2023 N.J. AGEN LEXIS 900, Final Decision (Dec 20, 2023); see also S.O. AND K.O. o/b/o B.O. v. Flemington-Raritan Regional School Board BOE, OAL DKT NO. EDS 09934-23, 2023 N.J. AGEN LEXIS 793, Final Decision (October 31, 2023).

Education rules do not offer any guidance on the standards by which such motions should be assessed. The Uniform Administrative Procedure Rules (UAPR), N.J.A.C. 1:1-1.1 to -21.6, also do not include such standards but provide that, "[i]n the absence of a rule, a judge may proceed in accordance with the New Jersey Court Rules, provided the rules are compatible with" the UAPR, which are designed "to achieve just results, simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay," N.J.A.C. 1:1-1.3(a).

Here, the court rule that fills the void is R. 4:6-2 which, like N.J.A.C. 6A:3-1.5(g) and N.J.A.C. 6A:3-1.10, allows for motions to dismiss. And since R. 4:6-2 serves the interests of time and expense and may help achieve just results, I **CONCLUDE** it is compatible with the UAPR's purposes, and thus it is appropriate to assess the Board's motion to dismiss in lieu of an answer under the standards used by the courts in applying R. 4:6-2.

Under these standards, if the basis for a motion to dismiss is that the petition has advanced no cause of action or failed to state a claim upon which relief may be granted, "the test for determining the adequacy of [the] pleading [is] whether a cause of action is 'suggested' by the facts," such that the "inquiry is limited to examining the legal sufficiency of the facts alleged on the face of the complaint." Printing-Mart Morristown v. Sharp Elecs. Corp., 116 N.J. 739, 746 (1989) (citing R. 4:6-2(e); Velantzas v. Colgate-Palmolive Co.,

109 N.J. 189, 192 (1988); Rieder v. Dep't of Transp., 221 N.J. Super. 547, 552 (App. Div. 1987)).

Importantly, for purposes of the motion, it does not matter whether a petitioner can ultimately "prove the allegation contained in the complaint" because "all facts alleged in the complaint and the legitimate inferences drawn therefrom are deemed admitted." Ibid. (citing Somers Constr. Co. v. S. Gloucester Cnty. Reg'l High Sch. Dist. Bd. of Educ., 198 F. Supp. 732, 734 (D.N.J.1961)); Smith v. City of Newark, 136 N.J. Super. 107, 112 (App. Div. 1975) (citing Heavner v. Uniroyal, Inc., 63 N.J. 130, 133 (1973); J.H. Becker, Inc. v. Marlboro Twp., 82 N.J. Super. 519, 524 (App. Div. 1964)). While "[a] complaint should not be dismissed . . . where a cause of action is suggested by the facts," "a dismissal is mandated where the factual allegations are palpably insufficient to support a claim upon which relief can be granted." Rieder, 221 N.J. Super. at 552.

Also, if "matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided by R. 4:46, and all parties shall be given reasonable notice of the court's intention to treat the motion as one for summary judgment and a reasonable opportunity to present all material pertinent to such a motion." R. 4:6-2. Accordingly, I **CONCLUDE** that the within motion to dismiss will be determined on the facts alleged in the due process petition, and thus this motion to dismiss can be properly transmitted to and decided by the OAL pursuant to N.J.A.C. 6A:3-1.5(g).

The Board's decision to remove M.J. from his classes.

The Individuals with Disabilities Education Act ("IDEA") and the New Jersey implementing regulations require a board of education to identify and classify children with disabilities and provide them with a free appropriate public education ("FAPE") designed to meet their unique needs. See 20 U.S.C. 1412; N.J.S.A. 18A:46-8, -9; and N.J.A.C. 6A:14-1.1 et seq. Moreover, pursuant to the IDEA, a due-process petition may be filed "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." 20 U.S.C. 1415(b)(6) (emphasis added); 20 U.S.C. 1415(f).

The decision made by an administrative law judge in a due process hearing shall be made on substantive grounds based on a determination of whether the child received a free, appropriate public education (FAPE). N.J.A.C. 6A:14-2.7(k) In matters alleging a procedural violation, an administrative law judge may decide that a child did not receive a FAPE only if the procedural inadequacies: 1) Impeded the child's right to a FAPE; 2) Significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of FAPE to the child; or 3) Caused a deprivation of educational benefits.

Jurisdiction in special education matters before the OAL is limited to questions of identification, evaluation, reevaluation, classification, educational placement, the provision of a free, appropriate public education, or disciplinary action. "Essentially, the question of jurisdiction revolves around whether this matter constitutes a special education proceeding, which properly comes before the OAL in its role as the designee of the Department of Education for Special Education hearings under the Individuals with Disabilities Education Act ("IDEA")" J.G. v. Riverside Bd of Educ. and NJ Interscholastic Athletic Assoc, 1999 WL 988489, at *1.

Here, a review of the due process petition discloses an attempt by Petitioner to frame the same as a special education matter due to the Board's removal of M.J.'s from school and conditioning his return upon medical clearance as a change in placement is misplaced. It is undisputed that prior to Petitioner's withdrawal of M.J. from the Livingston Public School District, M.J. was eligible for special education and related services under the classification of Multiple Disabilities. Students with special education and related services may be removed or suspended from their instruction subject to the provisions of N.J.A.C. 6A:14-2.8(a), which provides in part:

> [the] district board of education officials may order the removal of a student with a disability from his or her current educational placement to an interim alternative educational setting, another setting, or a suspension for up to 10 consecutive or cumulative school days in a school year. Such suspensions

> are subject to the same district board of education procedures as the procedures for nondisabled students.
>
> [See also 20 U.S.C. 1415(k)(1)(B)]

It is undisputed also that Petitioner withdrew M.J. on December 4, 2025, approximately five school days after the requirement for medical clearance following reported suicidal ideation. The record thus discloses that M.J. was not removed from school for more than 10 school days before Petitioner withdrew him from the Livingston Public School District.

In addition, N.J.A.C. 6A:14-2.8(c) further provides that removal of a student with a disability from the student's current educational placement constitutes a change of placement only if the removal is for more than 10 consecutive, or cumulative in certain circumstances, school days. [emphasis provide].

Notwithstanding that M.J. was suspended for less than 10 consecutive, or cumulative school days, Petitioner also argues that "conditioning return on medical clearance constitutes a change in placement". As noted above, M.J.'s removal was for less than 10 days, which does not constitute a change in placement. See N.J.A.C. 6A:14-2.8(a) and (c) and 20 U.S.C. 1415(k)(1)(B).

Here, the record reflects that the Board requested M.J.'s removal on or about November 26, 2025. Petitioner then withdrew M.J. from the Livingston Public School District approximately five school days later, on December 4, 2025. Therefore, I **CONCLUDE** the additional protections for classified students, including prior written notice or a manifestation determination meeting, were not triggered, as M.J. had not been removed for more than "another setting, or a suspension for up to 10 consecutive or cumulative school days in a school year." N.J.A.C. 6A:14-2.8(a)

Further, I **CONCLUDE** since the alleged procedural violation did not occur, let alone amount to substantive harm such as loss of educational opportunity or seriously

deprive parents of participation rights as alleged in the due process petition, compensatory education is unavailable and the petition would be moot. See 20 U.S.C. § 1415(f)(3)(E)(ii); C.H., 606 F.3d at 66–67.

A petitioner may file a due process petition after the child's disenrollment.

An action is moot when the decision sought "can have no practical effect on the existing controversy." Redd v. Bowman, 223 N.J. 87, 104 (2015). For reasons of judicial economy and restraint, it is appropriate to refrain from decision-making when an issue presented is hypothetical, judgment cannot grant effective relief, or the parties do not have a concrete adversity of interest. Anderson v. Sills, 143 N.J. Super. 432, 437 (Ch. Div. 1976); Fox v. Twp. of E. Brunswick Bd. of Educ., OAL Dkt. No. EDU 10067-98, Initial Decision (Mar. 19, 1999), aff'd, Comm'r (May 3, 1999), https://njlaw.rutgers.edu/collections/oal/; J.L. and K.D. ex rel. J.L. v. Harrison Twp. Bd. of Educ., OAL Dkt. No. EDS 13858-13, Final Decision (Jan. 28, 2014).

A procedural violation, standing alone, is insufficient to amount to a denial of FAPE; the parent must show substantive harm. See C.H. v. Cape Henlopen Sch. Dist., 606 F.3d 59, 66–67 (3d Cir. 2010) (procedural violations are actionable only if they result in loss of educational opportunity or seriously deprive parents of participation rights); D.S. v. Bayonne Bd. of Educ., 602 F.3d 553, 565 (3d Cir. 2010). If the procedural violation meets that standard, a hearing officer may award compensatory education as an equitable remedy for the period of deprivation. See C.H., 606 F.3d at 66–67. Where a hearing officer finds a violation of one or more of the IDEA's procedural requirements but no substantive loss to the child of parent, the IDEA precludes the hearing officer from finding a denial of FAPE but expressly does not preclude the hearing officer from issuing a prospective order to comply with said procedural requirements. 20 U.S.C. § 1415(f)(3)(E)(ii)-(iii).

A parent may be able to disenroll a child from a school district and still pursue a due process petition seeking compensatory education for an alleged denial of FAPE that

occurred before the disenrollment. Because compensatory education is remedial and retrospective, claims have not been rendered moot by relocation. D.F. v. Collingswood Borough BOE, 694 F.3d 488, 497–99 (3d Cir. 2012). Notably, in D.F., the petition was filed prior to disenrollment, whereas in this case, it was filed after disenrollment; however, this distinction does not appear to be significant to the rationale for awarding compensatory damages.[1]

In K.P. o/b/o A.P. v. Manville Borough BOE, the parent filed a due process petition after the student disenrolled from the school district in January 2022, alleging that prior IEP and BIP deficiencies resulted in a denial of FAPE and seeking relief for earlier services. OAL Dkt. No. EDS 02620-24, Final Decision (May 29, 2024). The ALJ granted the district's motion to dismiss on other grounds and did not address disenrollment as a basis for dismissal. Id.

New Jersey regulations similarly permit a parent to request a due process hearing concerning the provision of FAPE without conditioning that right on current enrollment. N.J.A.C. 6A:14-2.7(a). Accordingly, provided the claim is timely under the two-year statute of limitations, see N.J.A.C. 6A:14-2.7(a)(1), I **CONCLUDE** disenrollment does not bar a claim for compensatory education arising from the period during which the school district was responsible for the student.

Because the M.J. is no longer enrolled in the school district, any prospective order directing compliance with procedural requirements would have no practical effect on the existing controversy and is therefore moot. See Redd v. Bowman, 223 N.J. 87, 104 (2015). Further, as I have already concluded that that the procedural violations alleged in the due process petition do not amount to substantive harm such as loss of educational

[1] "The IDEA works because each school district bears the obligation to educate special needs students, often at substantial cost. See Lauren W. ex rel. Jean W. v. DeFlaminis, 480 F.3d 259, 262 (3d Cir. 2007) ("It is undisputed that the District is the local education agency responsible for providing a FAPE to [the student]."). To comply with the IDEA, a school district no longer responsible for educating a child must still be held responsible for its past transgressions. Were we to uphold the District Court's ruling, we would create an enormous loophole in that obligation and thereby substantially weaken the IDEA's protections. We therefore hold that a claim for compensatory education is not rendered moot by an out-of-district move, even if that move takes the child out of state." D.F. v. Collingswood Borough BOE, 694 F.3d at 497-98.

opportunity or seriously deprive parents of participation rights, I **CONCLUDE** compensatory education is unavailable and the petition would be moot. See 20 U.S.C. § 1415(f)(3)(E)(ii); C.H., 606 F.3d at 66–67.

Here, the record reflects that M.J. was removed from the school for five (5) school days prior to disenrollment,[2] during which time the Board required medical clearance to return to school due to concerns regarding possible suicidal ideation. Even assuming that a procedural violation of the IDEA occurred, I **CONCLUDE** that a five-day absence will not rise to the level of substantive harm to be considered a violation of FAPE. Accordingly, I **CONCLUDE** Petitioner cannot demonstrate the substantive harm required to support an award of compensatory education.

In her opposition to the motion, Petitioner cites Forest Grove Sch. Dist. v. T.A., 557 U.S. 230 (2009), in apparent support of her argument that the present matter is not moot, reliance on the same is misplaced. The matter before the Supreme Court in Forest Grove was whether tuition reimbursement could be awarded following a unilateral placement where the child had not previously received special education and related services by the school district. The within matter involves neither a unilateral placement nor tuition reimbursement and thus Forest Grove is wholly inapplicable.

The Board's only reference to mootness in its Motion to Dismiss was regarding Petitioner's request concerning M.J. being marked absent following his withdrawal on December 4, 2025. As noted in the Board's Motion to Dismiss, to the extent that Petitioner was receiving automatic notice of absence following her sudden withdrawal of M.J. from the Livingston Public School District on December 4, 2025, the same has been corrected. Petitioner's argument that the automatic attendance notifications somehow "relate to denial of FAPE or procedural harm", I **CONCLUDE** the same is thus without merit.

[2] Once a student is disenrolled from the district and the parent has indicated no intent to re-enroll, the district's obligation to provide special education services ceases. F.H. AND M.H. o/b/o J.H. v. West Morris Regional BOE, OAL DKT. NO. EDS 10706-17, 2019 N.J. AGEN LEXIS 56, Final Decision (Feb. 13, 2019).

For the reasons state herein, I **CONCLUDE** that the Board's motion to dismiss the underlying due process petition is **GRANTED** in accordance N.J.A.C. 6A:3-1.5(g), and the due process petition is **DISMISSED**.

ORDER

It is **ORDERED** that the Board's motion to dismiss the underlying due process petition is **GRANTED,** and the 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 (2022) 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 Board court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. § 300.516 (2022). 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.

Date: March 3, 2026

Julio Morejon

JULIO C. MOREJON, ALJ

Date Received at Agency: March 3, 2026

Date Mailed to Parties: March 3, 2026

lr