State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION
SUMMARY DECISION
OAL DKT. NO. EDS 21518-25
AGENCY DKT. NO. 2026-40176

A.B. ON BEHALF OF J.B.,
Petitioners,
v.
HIGHLAND PARK BOROUGH BOARD OF EDUCATION,
Respondent.

A.B. and J.B., petitioners, pro se

David B. Rubin, Esq., for respondent (Busch Law Group, LLC, attorneys)

Record Closed: March 4, 2026 Decided: March 13, 2026

BEFORE **MAMTA PATEL**, ALJ:

STATEMENT OF THE CASE

Since May 19, 2025, petitioner A.B. has refused special education and related services for her son J.B., under homebound instruction, and has refused to sign the release of records to facilitate out-of-district placement despite a court order. Has respondent Highland Park Borough Board of Education denied J.B. a free appropriate

public education (FAPE)? No. If a parent refuses services, the district is not considered to have denied FAPE. N.J.A.C. 6A:14-2.3(c).

PROCEDURAL HISTORY

On April 30, 2025, respondent Highland Park Borough Board of Education (Highland Park) issued J.B.'s individualized education program (IEP). A.B. did not file for mediation or a due process petition. On May 17, 2025, J.B.'s IEP became ripe for implementation, with homebound instruction pending placement at a private day school for students with disabilities. Highland Park's child study team (CST) identified several potential schools that might be appropriate for J.B. to attend, pending other considerations, including Jardine Academy, Lakeview School, Rock Brook School, Piscataway Regional Day School, and Governor Livingston High School.

A.B., J.B.'s mother, has not allowed the implementation of home instruction nor signed any consent to release records to facilitate an out-of-district placement. On August 11, 2025, Highland Park filed a due process petition seeking an order requiring petitioner, A.B., to consent to home instruction and sign a records release to support the out-of-district placement. Highland Park Borough Bd. of Educ. v. A.B. ex rel. J.B., 2025 N.J. AGEN LEXIS 510 (October 30, 2025). In that case, Highland Park filed a motion for summary decision establishing that home instruction pending out-of-district placement was in effect, and A.B. filed a response, arguing that J.B. had been denied FAPE and that Highland Park had improperly removed J.B. from his then educational environment, which was in district. After reviewing the arguments from both parties, I rejected A.B.'s arguments and ordered A.B. to cooperate with Highland Park and to sign the consent to release records.

On December 19, 2025, A.B. filed a due process petition with the Office of Special Education (OSE) alleging violations of the Individuals with Disabilities Education Act (IDEA). The petition seeks a ruling that Highland Park denied FAPE, violated the stay-put provision, and requests an award of compensatory education.

On January 20, 2026, the OSE transmitted the case to the Office of Administrative Law (OAL) under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6, and the Special Education Program, N.J.A.C. 1:6A-1.1 to -18.4.

On January 28, 2026, I held a Zoom conference call, during which David Rubin, Esq., stated that he intended to file a motion for summary decision. On February 10, 2026, Highland Park filed its motion for summary decision. On March 3, 2026, A.B. filed her response, on March 4, 2026, Highland Park filed a reply, and I closed the record.

On March 5, 2026, A.B. emailed a letter requesting to amend the due process petition, and on the same day, Highland Park submitted a letter opposing the request.

FINDINGS OF FACT

Based on the arguments the parties made at oral argument, together with the documents the parties submitted in support of and in opposition to the application for emergency relief, I **FIND** the following as **FACT** for purposes of this motion only:

April 30, 2025, IEP

1. In March 2025, J.B. was fifteen years old and lived with his mother, A.B., in the Highland Park Borough School District.

2. J.B. has multiple disabilities and is supported by a 1:1 nurse during the school day.

3. In mid-March 2025, J.B. was placed temporarily at Highland Park Middle School in a self-contained classroom while awaiting a decision on a suitable long-term placement.

4. On April 30, 2025, the Highland Park CST team, including A.B., held a thirty-

day placement review meeting, during which the CST team proposed a change to an out-of-district setting—specifically, a private day school for students with disabilities—effective May 1, 2025, through April 29, 2026, with home instruction in the interim.

5. The April 30, 2025, IEP states that J.B. is:

> classified under the classification category of Multiple Disabilities due to his hearing loss which precludes him from processing auditory information without support, his diagnosis of contracture of his right foot and ankle (club foot), which adversely affects his ability to fully engage in his academic curriculum (physical education, ambulating in school, etc.), his complex medical history of which he requires support due to various medical issues and his significant speech delays.

6. On May 1, 2025, Catherine Leahy, case manager and school psychologist, sent an email to A.B. that included a copy of the April 30, 2025, IEP, a consent request form for releasing records, and a copy of "Parental Rights in Special Education." A.B. was also informed that she had fifteen days to review the IEP.

7. On May 17, 2025, Leahy emailed A.B., confirming that the April 30, 2025, IEP was now in effect and that she would contact A.B. on Monday, May 19, 2025, to coordinate a schedule for home instruction and the location of services.

8. Between May 1, 2025, and May 19, 2025, A.B. did not object in writing to the implementation of the April 30, 2025, IEP, nor did A.B. file for mediation or due process. Additionally, A.B. did not sign updated requests for the release of records or confirm a classroom visit to any schools.

9. On August 11, 2025, Highland Park filed for a due process hearing requesting an order to compel A.B. to consent to the implementation of the April 30 IEP, including signing the consent for the release of records.

10. On October 30, 2025, I ordered A.B. to cooperate with Highland Park and to sign the consent to release records.

11. A.B. continues to oppose Highland Park's efforts to implement J.B.'s IEP.

12. Highland Park pressed truancy charges against A.B. in Highland Park Municipal Court.

13. On December 10, 2025, the Department of Children and Families notified Highland Park that A.B. was homeless.

14. A.B. refused to reveal her place of residence.

15. On February 10, 2026, municipal court judge Edward Herman, J.M.C., ordered A.B. to comply with the order from October 30, 2025.

16. On February 11, 2026, Brian English, S.C.J., in Middlesex County Superior Court, Family Part, Dkt. No. FN-12-000058-26, granted physical custody of J.B. to the New Jersey Division of Child Protection and Permanency.

17. Neither A.B. nor J.B. currently resides in the Highland Park school district.

18. To date, A.B. has not signed a current release of student records to be sent to any of the listed schools above.

19. The March 30, 2025, IEP is set to expire on April 29, 2026.

CONCLUSIONS OF LAW

IDEA

The IDEA requires a school district to provide FAPE to all children with disabilities who are deemed eligible for special education. 20 U.S.C. § 1412(a)(1)(A); N.J.A.C.

6A:14-1.1(b)(1). Once a school has identified that a student is eligible for IDEA services, it must develop and implement an IEP based on the student's needs and areas of disability. Munir v. Pottsville Area Sch. Dist., 723 F.3d 423, 426 (3d Cir. 2013) (citation omitted).

Parents who disagree with a proposed IEP must file for mediation or a due process hearing within fifteen days, or the IEP automatically takes effect. Under N.J.A.C. 6A:14-2.3(h)(3), the district BOE shall implement the proposed IEP after fifteen days unless the parent objects to the proposed action and the district BOE attempts to resolve the dispute, or the parent requests mediation or files a due process petition before the fifteenth day expires.

The IDEA includes various procedural safeguards to protect the rights of special education students. 20 U.S.C. § 1400, et seq. One such safeguard is known as "stay-put," which states that "during the pendency of any proceedings conducted pursuant to [the IDEA]," unless an agreement is reached otherwise, "the child shall remain in the then-current educational placement of the child." 20 U.S.C. § 1415(j).

Stay-put is invoked when a parent disagrees with a proposed change and files for mediation or a due process petition. Stay-put entitles the child to remain in their "then-current educational placement" pending the due process hearing. 20 U.S.C. 1415(j). The child's "then-current educational placement" is the IEP that is "actually functioning" at the time the parents invoked "stay-put." Drinker v. Colonial Sch. Dist., 78 F.3d 859, 867 (3d Cir. 1996) (citations omitted). Thus, "stay-put" maintains the status quo and effectively blocks "school districts from effecting unilateral change in a child's educational program." Susquenita Sch. Dist. v. Raelee S., 96 F.3d 78, 83 (3d Cir. 1996).

Additionally, parents are expected to be involved in their children's educational services and to actively participate in their child's IEP team, including providing consent for services. 20 U.S.C. § 1414(d)(1)(B) and (a)(1)(D)(ii). However, if a parent refuses special education and related services on behalf of a student, the district board of education may not be deemed to have denied the student a FAPE. N.J.A.C. 6A:14-2.3(c).

Nevertheless, the IDEA neither requires nor compels parents to accept special education and related services for their children.

On May 1, 2025, Leahy emailed A.B. a copy of J.B.'s IEP dated April 30, 2025, and informed her that she had fifteen days to review the IEP.

A.B. did not object in writing to the implementation of the April 30, 2025, IEP or file for mediation or due process within the required fifteen days. On May 17, 2025, Leahy emailed A.B., confirming that the April 30, 2025, IEP was now in effect and that she would contact A.B. on Monday, May 19, 2025, to coordinate a schedule for home instruction. A.B. did not file the due process petition until December 19, 2025, well after the April 30, 2025, IEP took effect. Therefore, I **CONCLUDE** that the April 30, 2025, IEP is the current functioning IEP. Drinker, 78 F.3d at 867. On October 30, 2025, I ordered A.B. to sign a consent to cooperate with the implementation of home instruction and the release of records. On February 10, 2026, Edward Herman, M.C.J., ordered A.B. to comply with the order of October 30, 2025. To date, A.B. has thwarted Highland Park's attempts to provide home instruction and has failed to sign the consent to release records to facilitate an out-of-district placement. A.B. refuses to cooperate and impedes all the district's efforts to implement J.B.'s April 30, 2025, IEP. Under N.J.A.C. 6A:14-2.3(c), because A.B. has failed to consent to the implementation of special education services offered by Highland Park, she cannot now claim that J.B. has been denied FAPE.

For the reasons stated above, I **CONCLUDE** that because A.B. has impeded the implementation of J.B.'s April 30, 2025, IEP, Highland Park has not denied FAPE. N.J.A.C. 6A:14-2.3(c).

Collateral Estoppel

Collateral estoppel, also known as issue preclusion, as demonstrated in Pittman v. La Fontaine, 756 F. Supp. 834, 841 (D.N.J. 1991), prevents relitigating any issue that was actually decided in a previous case, typically between the same parties, involving a different claim or cause of action. Collateral estoppel or issue preclusion only requires that an issue of fact or law be resolved in a valid proceeding and that a final judgment on

that issue was essential to the decision. The judgment on that issue is binding in any subsequent case between the parties, whether they involve the same or a different claim.

> (1) the issue to be precluded is identical to the issue decided in the prior proceeding; (2) the issue was actually litigated in the prior proceeding; (3) the court in the prior proceeding issued a final judgment on the merits; (4) the determination of the issue was essential to the prior judgment; and (5) the party against whom the doctrine is asserted was a party to or in privity with a party to the earlier proceeding.
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> [First Union Nat. Bank v. Penn Salem Marina, Inc., 190 N.J. 342, 352 (2007) (quoting Hennessey v. Winslow Twp., 183 N.J. 593, 599 (2005)).]

Before the April 30 IEP, J.B. was in a thirty-day interim in-district placement pending a long-term placement. The April 30 IEP proposed in-home instruction, pending out-of-district placement. A.B. did not file for mediation or due process, and on May 17, 2025, the April 30 IEP became effective. In A.B.'s response to Highland Park's motion for summary decision in Highland Park Borough Board of Education v. A.B. ex rel. J.B., 2025 N.J. AGEN LEXIS 510, she raised arguments including the denial of FAPE and violations of stay put, as in her current due process petition, which I rejected. I concluded that since A.B. did not file for mediation or a due process hearing of the April 30 IEP within fifteen days, it became effective on May 17, 2025. Therefore, J.B.'s current placement is home instruction pending out-of-district placement. A.B. failed to cooperate to facilitate the implementation of J.B.'s April 30 IEP. Therefore, on October 30, 2025, I ordered A.B. to cooperate with the implementation of the April 30 IEP and sign the consent to release records required for out-of-district placement. I **CONCLUDE** that because the issues of denial of FAPE and violations of stay put were raised and rejected in the prior case, A.B. is precluded from raising them here.

Summary Decision

Under N.J.A.C. 1:1-12.5(b), a summary decision "may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled

to prevail as a matter of law." In this case, petitioner, in her response to Highland Park's motion for summary decision, did not demonstrate that a genuine issue of material fact exists. Because I have concluded that A.B. has refused to cooperate with the implementation of the April 30 IEP and provided no new argument that Highland Park has violated FAPE or stay-put, I **CONCLUDE** that Highland Park is entitled to summary decision as a matter of law.

Because I am granting Highland Park's motion for summary decision, there is no need for any further review of A.B.'s request to amend the petition.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that Highland Park Borough Board of Education's motion for summary decision is **GRANTED**. I further order that A.B.'s due process petition is **DISMISSED**.

If the parent or adult student believes that this decision is not being fully implemented, then the parent or adult student is directed to communicate that belief in writing to the Director of the Office of Special Education. 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 bringing a civil action in the Law Division of the Superior Court of New Jersey or in the United States District Court for the District of New Jersey under U.S.C. § 1415(i)(2) and 34 C.F.R. § 300.516 (2026).

March 13, 2026
DATE

MAMTA PATEL, ALJ

Date Received at Agency:

Date Mailed to Parties:

MP/jm

APPENDIX

Witnesses

For petitioners:

None

For respondent:

None

Exhibits

For petitioners:

Response in opposition to Highland Park's motion for summary decision, dated January 15, 2026

For respondent:

Brief and certification of Amy Coppola

Ex. A Highland Park's brief in support of summary decision in OAL Dkt. No. EDS 14032-25

Ex. B A.B.'s response to Highland Park's motion for summary decision in OAL Dkt. No. EDS 14032-25

Ex. C Highland Park's reply brief in OAL Dkt. No. EDS 14032-25

Ex. D Final decision in OAL Dkt. No. EDS 14032-25, dated October 30, 2025

Ex. E A.B.'s due process petition, dated December 18, 2025

Ex. F February 10, 2026, Order signed by Edward Herman, J.M.C.,

Ex. G February 11, 2026, Order signed by Brian English, S.C.J., in Middlesex County Superior Court, Family Part, Dkt. No. FN-12-000058-26

Reply Brief dated, March 4, 2026