



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NO. EDS 00024-26

AGENCY DKT. NO. 2026-40208

J.T. ON BEHALF OF N.C.,

Petitioner,

v.

NEWTON TOWN BOARD OF EDUCATION,

Respondent.

J.T., petitioner, pro se

Robin S. Ballard, Esq., for respondent (Schenck, Price, Smith & King, LLP, attorneys)

Record Closed: March 23, 2026

Decided: March 30, 2026

BEFORE **MARGARET M. MONACO**, ALJ:

STATEMENT OF THE CASE

This matter arises under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq. (the IDEA), and the implementing federal and state regulations. J.T., on behalf of her son, N.C., seeks independent evaluations.

PROCEDURAL HISTORY

On December 29, 2025, petitioner filed a Request for Due Process Hearing with the Office of Special Education (OSE). Petitioner's Request for Due Process Hearing states, "I'm in disagreement with the propose[d] decision of Newton school district [the District] in regard to my son[s] IEP and requesting an independent evaluation of each evaluation the district performed for my son and adding an independent psychiatric evaluation." According to the Request for Due Process Hearing, the problem could be resolved by "[i]ndependent evaluation per request and based on the evaluation performed await the recommendation performed by outside evaluators[.]" On January 7, 2026, the District filed its Answer to Petition for Due Process. Following an unsuccessful mediation conference on January 20, 2026, the OSE transmitted the matter to the Office of Administrative Law (OAL), where it was filed on January 28, 2026. The transmittal sheet regarding this matter states, "Petitioner obo student seeks independent evaluations." Telephone conferences were held on February 3 and 13, 2026. During the February 13, 2026, prehearing conference, the hearing was scheduled for April 17, 2026, the District articulated its intention to file a motion to dismiss, and a briefing schedule regarding that motion was established.

On March 2, 2026, the District filed a Motion for Summary Decision.¹ In support of the motion, the District filed a brief with exhibits attached and a certification by its Director of Special Services, Jennifer Pasquali. On March 18, 2026, petitioner filed an opposition to the motion, after which the District filed a reply brief on March 23, 2026.²

FACTUAL DISCUSSION

Based upon a review of the documentation submitted, I **FIND** the following undisputed **FACTS**:

¹ Although referred to as a motion to dismiss, since the motion includes a certification and various exhibits, it is more appropriately considered a motion for summary decision. See R. 4:6-2.

² By letter orders issued on March 2 and 13, 2026, I denied petitioner's requests to amend her December 2025, Request for Due Process Hearing "to include new facts and issues that have arisen since the initial filing[.]"

N.C. is currently seventeen years old and a student at the District's Newton High School. He was previously found eligible for special education and related services under the category of other health impairment (OHI) based upon a medical diagnosis of attention deficit hyperactivity disorder (ADHD).

On or about October 29, 2025, petitioner provided the District with her consent to conduct a triennial reevaluation of N.C. in order to assess his continued eligibility for special education and related services. The reevaluation consisted of psychological and educational evaluations, which the District conducted on November 25 and 26, 2025.

On December 19, 2025, the District's Child Study Team (CST) met with petitioner to discuss the outcome of the evaluations and to make an eligibility determination. The CST determined that N.C. no longer met the criteria to be classified as eligible for special education and related services and that N.C. did "not evidence a specific learning disability" based on the updated educational and psychological evaluations. (See Ex. 1 attached to the District's Mar. 2, 2026, Br.) In this regard, the CST found that "the Psychological Evaluation indicates that [N.C.] demonstrates significant cognitive strengths that support his functioning in the general education setting"; "[h]is Extremely High Working Memory score . . . [134 on the Wechsler Adult Intelligence Scale – Fifth Edition (WAIS-V)] reflects strong ability to follow multi-step verbal directions, complete mental math, take notes during instruction, and comprehend complex verbal information efficiently"; "[h]e also shows notable strengths in Visual Spatial reasoning [122 on the WAIS-V], which support his ability to interpret charts, graphs and maps, as well as tasks related to geometry, design, and spatial navigation"; and "[t]hese areas of cognitive strength enable [N.C.] to access and succeed in the general education curriculum without the need for specialized instruction." (*Ibid.*) The CST determined that, despite N.C.'s ADHD diagnosis, "information gathered from teacher reports and classroom performance data indicates that [N.C.'s] needs can be effectively addressed within the general education setting," and teachers reported that N.C. "is able to access the curriculum, benefit from instruction, and demonstrate academic progress with the use of typical classroom strategies and supports available to all students." (*Ibid.*) Accordingly, because N.C. no longer met the eligibility criteria for OHI or any other eligibility category, the District determined that he should be declassified.

On December 19, 2025, petitioner sent an email to the District advising that she was “in non-agreement with the evaluations and the recommendations for [N.C.],” and she was “requesting an Independent Evaluation for each of the evaluations the district has done and add a Psychiatric Evaluation.” (Ex. 2 attached to the District’s Mar. 2, 2026, Br.) On December 29, 2025, petitioner filed the Request for Due Process Hearing that is the subject of this proceeding. On January 8, 2026, the District filed a Petition for Due Process seeking to deny petitioner’s request for an independent educational evaluation (IEE).

The District’s Petition was transmitted to the OAL under Docket No. EDS 00411-26 and assigned to Administrative Law Judge Andrea Perry-Villani. On February 9, 2026, petitioner sent an email to District counsel advising that she was having a private evaluation of N.C. completed at her insurance company’s expense, and she was not requesting the District to pay for the independent evaluation. (Ex. 3 attached to the District’s Mar. 2, 2026, Br.) District Counsel replied on the same date and requested petitioner to confirm that her email meant that she was withdrawing her request for the District to provide and fund an IEE of N.C. (*Ibid.*) On February 19, 2026, petitioner sent an email to District counsel, which states in part, “I have never requested the school to pay for my son[’s] independent evaluation.” (*Ibid.*) Later that day, District counsel requested petitioner to confirm that she was “not asking the District to provide an [IEE] of N.C. and [was] withdrawing the request [she had] made for one.” (*Ibid.*) In response, petitioner sent an email in which she replied, “Confirmed.” (*Ibid.*) Based on petitioner’s confirmation, on February 19, 2026, the District withdrew its Petition for Due Process pending before Judge Perry-Villani, as there was no remaining request for an IEE to deny.

LEGAL DISCUSSION AND CONCLUSIONS

Pursuant to N.J.A.C. 1:1-12.5(b), 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.” This rule is substantially similar to the summary judgment rule embodied in the New Jersey Court Rules. See Judson v. Peoples Bank &

Trust Co. of Westfield, 17 N.J. 67, 74 (1954). In Brill v. Guardian Life Ins. Co., 142 N.J. 520, 540 (1995), the New Jersey Supreme Court addressed the appropriate test to be employed in deciding the motion:

[A] determination whether there exists a “genuine issue” of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party. The “judge’s function is not . . . to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” If there exists a single, unavoidable resolution of the alleged disputed issue of fact, that issue should be considered insufficient to constitute a “genuine” issue of material fact for purposes of Rule 4:46-2.

[Citations omitted.]

In evaluating the merits of the motion, all inferences of doubt are drawn against the movant and in favor of the party against whom the motion is directed. Judson, 17 N.J. at 75. However, “[w]hen a motion for summary decision is made and supported, an adverse party in order to prevail must, by responding affidavit, set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.” N.J.A.C. 1:1-12.5(b).

Against this backdrop, the District contends that petitioner’s December 2025 Request for Due Process Hearing which seeks independent evaluations is moot. Based upon the foregoing facts and the applicable law, I **CONCLUDE** that there is no genuine issue as to any material fact and that the matter is ripe for summary decision.

It is firmly established that “questions that have become moot or academic prior to judicial scrutiny generally have been held to be an improper subject for judicial review.” Anderson v. Sills, 143 N.J. Super. 432, 437 (Ch. Div. 1976); see Oxfeld v. New Jersey State Bd. of Educ., 68 N.J. 301 (1975). In this regard, “for reasons of judicial economy and restraint, courts will not decide cases in which the issue is hypothetical, a judgment

cannot grant effective relief, or the parties do not have concrete adversity of interest.” Anderson, 143 N.J. Super. at 437.

“[A] case is moot when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” Donovan v. Punxsutawney Area Sch. Bd., 336 F.3d 211, 216 (3rd Cir. 2003) (quoting Powell v. McCormack, 395 U.S. 486, 496 (1969)). A “court’s ability to grant effective relief lies at the heart of the mootness doctrine.” Ibid. In other words, “[i]f developments occur during the course of adjudication that eliminate a plaintiff’s personal stake in the outcome of a suit or prevent a court from being able to grant the requested relief, the case must be dismissed as moot.” Ibid. (quoting Blanciak v. Allegheny Ludlum Corp., 77 F.3d 690, 698–699 (3d Cir. 1996)). A case is considered to be moot “when the decision sought in a matter, when rendered, can have no practical effect on the existing controversy.” Greenfield v. New Jersey Dep’t of Corr., 382 N.J. Super. 254, 257–58 (App. Div. 2006) (citation omitted). An action is also moot when it no longer presents a justiciable controversy because the issues raised have been resolved. Betancourt v. Trinitas Hosp., 415 N.J. Super. 301, 311 (App. Div. 2010). See B.R. and A.R. o/b/o S.R. v. West Deptford Twp. Bd. of Educ., 2023 N.J. AGEN LEXIS 550 (petition seeking an out-of-district placement was moot after the parents moved to another school district); S.J. o/b/o J.J. v. Willingboro Bd. of Educ., 2014 N.J. AGEN LEXIS 28 (dismissing parent’s petition as moot where the specific relief sought by the parent, i.e., a qualified one-on-one aide, was provided as a related service in a later IEP); P.S. o/b/o I.S. v. Edgewater Park Twp. Bd. of Educ., 2005 N.J. AGEN LEXIS 660 (dismissing parent’s petition as moot where the IEP team accepted the parent’s requested placement at the Bancroft School).

Succinctly stated, petitioner’s due process request seeking an IEE is moot. It is undisputed that, after filing the instant due process request, petitioner informed the District that she withdrew her request for an IEE. Equally undisputed is that the provision of the IEE was the only relief sought by petitioner in her due process request. Accordingly, there is no pending controversy to be decided, and no viable claim for which relief may be granted, in view of petitioner’s withdrawal of her IEE request.

Petitioner's opposition does not support a contrary result. Rather than addressing the issue regarding why her Request for Due Process Hearing should not be dismissed as moot, petitioner submitted multiple documents in an attempt to support her contention that N.C. continues to be eligible for special education. In short, the District's declassification of N.C. is beyond the scope of the pending Request for Due Process Hearing. Equally unavailing is petitioner's attempt to undo the unambiguous withdrawal of her request for an IEE unless the District accepts her private evaluation. Plainly, the District is not required to accept a private evaluation and needs only to review and consider any such evaluation. See N.J.A.C. 6A:14-2.5(c). Simply because a district does not accept a private evaluation is not a legally valid way for a parent to obtain an IEE at public expense. Ibid.

Based upon the foregoing, I **CONCLUDE** that summary disposition of this matter is appropriate, and petitioner's Request for Due Process Hearing has been rendered moot. I **CONCLUDE** that dismissal of petitioner's Request for Due Process Hearing is warranted.


ORDER

I **ORDER** that respondent's motion for summary decision be and hereby is **GRANTED** and that petitioner's Request for Due Process Hearing be and hereby is **DISMISSED**.

This decision is final pursuant to 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 (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


MARGARET M. MONACO, ALJ

Date Received at Agency _____

Date Mailed to Parties: _____

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