



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION

OAL DKT. NOS. EDS 21337-25,
01138-26, & 01140-26
AGENCY DKT. NOS. 2026-40154,
2026-40299, & 2026-40300

M.K. AND Y.X. ON BEHALF OF G.K.,

Petitioners,

v.

GLEN ROCK BORO BOARD OF EDUCATION,

Respondent.

M.K. and Y.X. on behalf of G.K., petitioners, pro se

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

BEFORE **ANDREA PERRY VILLANI, ALJ:**

Record Closed: April 1, 2026

Decided: April 20, 2026

STATEMENT OF THE CASE

Petitioners, M.K. and Y.X., filed complaints on behalf of their son, G.K., a special education student, requesting special education-related reliefs. They later revoked their consent for G.K. to receive special education so that no special education-related reliefs can be granted. Should their complaints be dismissed? Yes. New Jersey Court Rule

4:6-2(e) provides for dismissal when a party fails to present claims upon which relief can be granted.

PROCEDURAL HISTORY

On September 30, 2025, the Glen Rock Board of Education (District) issued an Amended Individualized Education Program (IEP) to the petitioners, M.K. and Y.X., for their son, G.K.. Among other things, the IEP included a Behavior Intervention Plan (BIP) to address behaviors that G.K. demonstrated during his first month in kindergarten.

On October 8, 2025, petitioners asked the District for an Independent Educational Evaluation (IEE) of G.K. in the form of a Functional Behavioral Assessment (FBA).

On October 16, 2026, petitioners filed a Request for Mediation with the Office of Special Education (OSE), and G.K.'s previous IEP dated March 21, 2025, became G.K.'s stay put placement.

On October 23, 2025, the District filed a petition seeking denial of the IEE.

On October 28, 2025, the District notified OSE that it was declining mediation, and OSE informed petitioners that it was closing the mediation request.

On October 31, 2025, the District requested that petitioners attend a meeting. The District explained that it requested the meeting to propose conducting its own FBA. The petitioners declined to participate in the meeting.

On November 7, 2025, petitioners filed a Request for Emergent Relief and a Due Process Complaint (Complaint One) claiming that the District violated stay put by collecting behavioral data on G.K..

On November 7, 2025, OSE transmitted the Request for Emergent Relief to the Office Administrative Law (OAL), and on November 14, 2025, it transmitted the Due Process Complaint (Complaint One) to the OAL under the Administrative Procedure Act,

N.J.S.A. 52:14B-1 to -15, the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, and the Special Education Program, N.J.A.C. 1:6A-1.1 to -18.5.

On November 18, 2025, the District formally requested petitioners' consent for the District to conduct an FBA. Petitioners refused.

On November 20, 2025, I heard oral argument and denied petitioners' Request for Emergent Relief, finding that the District had not violated stay put by collecting behavioral data.

On November 21, 2025, the next day, petitioners filed another Due Process Complaint (Complaint Two) again requesting that the district stop all behavioral data collection. OSE transmitted Complaint Two to the OAL on December 11, 2025.

On December 16, 2025, petitioners filed a third Due Process Complaint (Complaint Three). In Complaint Three, petitioners alleged a denial of FAPE because G.K. was removed from class on December 12, 2025. Petitioners requested compensatory education and appropriate supports related to the removal from class. OSE transmitted Complaint Three to the OAL on January 15, 2026.

Also on January 15, 2026, Administrative Law Judge (ALJ) Kelly Kirk issued her decision upholding the District's denial of an independent FBA. She found that the District was not required to provide an independent FBA because the District's evaluations conducted at the time were sufficient to identify G.K.'s special education needs. She also noted that, while the record did not support a right to an "independent FBA at public expense," G.K.'s behavior may warrant an FBA by the District at this time. As noted above, however, petitioners refused an FBA by the District.

Also on January 15, 2026, petitioners filed a fourth Due Process Complaint (Complaint Four). In Complaint Four, petitioners stated that the District has "continued to provide a meeting link for an IEP meeting notwithstanding parental objection," and they requested that the District "cease and desist from...proceed[ing] with IEP development,

revision, or decision making without parental participation.” OSE transmitted Complaint Four to the OAL on February 13, 2026.

On January 20, 2026, petitioners filed a fifth Due Process Complaint (Complaint Five). In Complaint Five, petitioners stated that the District “unilaterally convened an IEP meeting on January 16, 2026 without the parents’ participation.” Petitioners requested stay put, that the IEP be declared null and void, and that the District “cease reliance on disputed behavioral data.” OSE transmitted Complaint Five to the OAL on February 19, 2026.

On January 16, 2026, the District filed a Motion to Dismiss Complaint One and Complaint Two, which I later granted.

On January 27, 2026, petitioners withdrew their consent for the District to provide G.K. with special education services. On January 30, 2026, the District issued a Notice of Proposed Action to petitioners confirming that, if petitioners did not rescind their revocation of consent within fifteen days, the District would terminate G.K.’s special education programming. Petitioners did not rescind their revocation of consent and G.K. is now a general education student.

On March 20, 2026, the District filed a Motion to Dismiss Complaint Three, Complaint Four, and Complaint Five. On March 22, 2026, petitioners filed their response. On April 1, 2026, the District filed a reply, and I closed the record.

FINDINGS OF FACT

Upon reviewing Complaint Three, Complaint Four, and Complaint Five, and treating the allegations contained in them as true, and giving petitioners the benefit of all legitimate inferences that may be drawn from them, I **FIND** the following as **FACT** for purposes of this Motion only:

G.K. was born in March 2020. In August 2023, he moved from West New York, New Jersey, where he was receiving Special Education and Related Services, to Glen Rock,

New Jersey. In Glen Rock, G.K. continued to receive Special Education and Related Services and was placed in the preschool disabled program for the 2024-2025 academic year.

G.K. was re-evaluated for kindergarten in February 2025. The resulting March 21, 2025 IEP (March IEP) provided him with supplementary instruction, speech-language therapy, occupational therapy, physical therapy, a shared aide, and transportation. The March IEP noted various behavioral issues:

[G.K.] tends to bump into and run past peers. He will often just strike and hit a peer as he passes by them...When [G.K.] started the program...he would run full force into staff, grab their legs, arms, and bodies. He has even hit staff. These behaviors had significantly subsided last year as the school year progressed but are on a significant rise this year since September. [G.K.] is attention seeking. He does not appear to discriminate between positive and negative attention...He will often escalate behaviors to prolong the attention. Staff has been instructed to ignore persistent negative behaviors such as balking like a parrot, grabbing of staff, and unusual rote phrases...When he sees something he likes, he will get very loud and jump around...The yelling does not stop...[G.K.] will sometimes refuse by throwing things...

G.K. is now in kindergarten at Alexander Hamilton Elementary School in Glen Rock. On September 30, 2025, to address issues that staff observed during G.K.'s first month of kindergarten, the District issued an Amended IEP (September IEP) classifying G.K. as communication impaired and providing: in-class supplementary instruction, pull-out support for phonics, speech-language therapy, occupational therapy, physical therapy, BCBA consultation, a Behavioral Intervention Plan (BIP), and a 1:1 aide. The September IEP states:

The attached IEP describes the proposed program and placement and was developed as a result of a 30-day review meeting...At this 30-day review meeting, [G.K.'s] transition was reviewed. He at times demonstrated physical aggression towards adults and peers such as pinching and scratching. Related service members have been supporting him with

access to alternate seating, movement breaks, a para, consultation from the behaviorist and occupational therapist, access to headphones and a weighted backpack as well as a token system where he can earn rewards throughout the day. At this meeting, it was proposed that direct occupational therapy be added once a week, behavioral consultation be added three times per month, the shared para be changed to an individual para as well as access to a Special Education teacher three times per week...

Once the District issued the September IEP and over the next four months, as outlined above, petitioners filed a Request for an IEE, Request for Mediation, Order to Show Cause, and five Due Process Complaints. Finally, petitioners revoked their consent for G.K. to receive Special Education Services on January 27, 2026.

CONCLUSIONS OF LAW

The Uniform Procedure Rules, N.J.A.C. 1:1-1.1 et seq., do not provide for motions to dismiss. However, N.J.A.C. 1:1-1.3 states that, in the absence of a rule, an Administrative Law Judge may proceed in accordance with the New Jersey Court Rules. New Jersey Court Rule 4:6-2 governs motions to dismiss. Under Rule 4:6-2(e), a judge may grant dismissal when a party fails to state a claim upon which relief can be granted.

In this case, petitioners requested the following relief: that the District comply with the Individuals with Disabilities Education Act (IDEA) and New Jersey Administrative Code on Special Education, N.J.A.C. 6A:14; that the District “cease and desist from...proceed[ing] with IEP development...”; that any actions resulting from IEP meetings be deemed null and void; that the District maintain the student’s current placement; that the District cease relying on disputed behavioral data; that no further IEP meetings be convened; that the District provide compensatory education for the student missing class time on December 12, 2025; that the District not exclude the child from instruction and instead provide developmentally appropriate supports; and, that the District implement corrective measures in compliance with the IDEA.

I cannot grant this relief. Petitioners revoked their consent for special education on January 27, 2026. G.K. is now a general education student because petitioners

specifically objected to G.K. receiving any further special education services. Therefore, I cannot order the District to provide special education services to G.K. in the form of compensatory education, developmentally appropriate special education supports or corrective measures in compliance with the IDEA. Furthermore, now that G.K. is a general education student, there will be no IEP meetings, IEP development, or actions resulting from IEP meetings. In other words, petitioners' requests set forth in their Complaints Three, Four and Five are now moot.

For all of the foregoing reasons, I **CONCLUDE** that petitioners' Complaint Three, Complaint Four, and Complaint Five must be dismissed for failure to state a claim upon which relief can be granted.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that petitioners' Complaint Three, Complaint Four, and Complaint Five are **DISMISSED**.

This decision is final pursuant to 20 U.S.C.A. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2014) 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.A. § 1415(i)(2); 34 C.F.R. § 300.516 (2014). 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.



April 20, 2026

DATE

ANDREA PERRY VILLANI, ALJ

Date Received at Agency:

April 20, 2026

Date Sent to Parties:

April 20, 2026

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DOCUMENTS RELIED ON

Respondent's March 20, 2026 Motion to Dismiss and Certification of Jennifer MacKay

Exhibit 1 January 30, 2026 Proposed Action

Petitioners' March 22, 2026 Response to Motion to Dismiss

Exhibit A February 13, 2026 Suspension Letter

Exhibit B Genesis Incident Reports

Exhibit C February 10, 2026 Nurse Log

Exhibit D February 10, 2026 & February 13, 2026 Safety Intervention Form

Exhibit E Email from Parents

Exhibit F Report Card

Exhibit G Genesis Screen Shot

Respondent's April 1, 2026 Reply