



*State of New Jersey*  
OFFICE OF ADMINISTRATIVE LAW

**FINAL DECISION**

**SUMMARY DECISION**

OAL DKT. NO. EDS 08132-22

AGENCY DKT. NO. 2023-34805

**WESTFIELD TOWN BOARD**

**OF EDUCATION,**

Petitioner,

v.

**D.C.ON BEHALF OF J.C.,**

Respondent

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**Isabel Machado**, Esq., for Petitioner (Machado Law Group, attorneys)

**D.C.** parent on behalf of **J.C.**, pro se

Record Closed: December 5, 2022

Decided: January 4, 2023

BEFORE: **THOMAS R. BETANCOURT**, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Petitioner filed a due process petition with the Office of Special Education (OSE) in the New Jersey Department of Education on August 8, 2022, seeking an order denying parental request for an independent evaluation. The matter was transferred to the Office

of Administrative Law (OAL) as a contested matter, where it was filed on September 19, 2022.

Petitioner filed a motion for summary decision, dated November 14, 2022. Nothing was filed by Respondent.

### **FINDINGS OF FACT**

1. J.C. is a sixteen year old student, who previously attended school with District.
2. Respondent, D.C., by letter dated July 19, 2022, requested an independent psychological evaluation for J.C. (Ex. A., Machado Cert.)
3. Petitioner District filed its due process petition to deny the request for an independent psychological evaluation on August 8, 2022.
4. J.C. was withdrawn as a student in the District pursuant to a withdrawal form dated September 20, 2022. (Ex. B., Machado Cert.)
5. J.C.'s last day in attendance at the District was September 1, 2022. (Ex. B., Machado Cert.)
6. J.C. was to attend the Putney School in Vermont. (Ex. B., Machado Cert.)
7. No Answer has been filed by Respondent to Petitioner's due process petition.
8. A settlement conference was scheduled for the within matter on September 26, 2022. That was rescheduled to October 17, 2022. (Ex. C., Machado Cert.)
9. Respondent advised via email that he could not attend the settlement conference on October 17, 2022. (Ex. D., Machado Cert.)
10. The matter was rescheduled for November 7, 2022. (Ex. E., Machado Cert.)
11. Respondent did not attend the settlement conference on November 7, 2022.
12. The matter was scheduled for a prehearing conference on November 10, 2022. Respondent failed to attend the same.

## **LEGAL ANALYSIS AND CONCLUSION**

### **Standard for Summary Decision**

A motion for summary decision may be granted if the papers and discovery presented, as well as any affidavits which may have been filed with the application, show that there is no genuine issue of material fact and the moving party is entitled to prevail as a matter of law. N.J.A.C. 1:1-12.5(b). If the motion is sufficiently supported, the non-moving party must demonstrate by affidavit that there is a genuine issue of fact which can only be determined in an evidentiary proceeding, in order to prevail in such an application. Ibid. These provisions mirror the summary judgment language of R. 4:46-2(c) of the New Jersey Court Rules.

The motion judge must “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 fact finder to resolve the alleged disputed issue in favor of the non-moving party.” Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 523 (1995). And even if the non-moving party comes forward with some evidence, this forum must grant summary decision if the evidence is “so one-sided that [the moving party] must prevail as a matter of law.” Id. at 536 (citation omitted).

There are no material facts in dispute and the matter is ripe for summary decision.

Respondent withdrew his son from the district. The matter was rendered moot by this action, and there is no longer anything before the undersigned that is justiciable.

“First, 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. Second, it is a premise of the Anglo-American judicial system that a contest engendered by genuinely conflicting self-interests of the parties is best suited to developing all relevant material before the court. Therefore, where there is a change in circumstances so that a doubt is created concerning the immediacy

of the controversy, courts will ordinarily dismiss cases as moot, regardless of the stage to which the litigation has progressed.” Anderson v. Sills, 143, NJ. Super 432, 437 (1976).

Based upon the foregoing I **CONCLUDE** that the within matter is moot and that Petitioner’s motion for summary decision be granted.

**ORDER**

It is **ORDERED** that Petitioner’s motion for summary decision be **GRANTED**, and that the relief sought by Petitioner in its due process petition be **GRANTED**, and that Respondent’s request for an independent evaluation is **DENIED**.

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 district 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.



January 4, 2023  
\_\_\_\_\_  
DATE

\_\_\_\_\_  
**THOMAS R. BETANCOURT, ALJ**

Date Received at Agency: \_\_\_\_\_

Date Mailed to Parties:  
db \_\_\_\_\_

**APPENDIX**

List of Moving Papers

For Petitioner:

Motion for Summary Decision

Certification of Isabel Machado, Esq., with Exhibits A through F

For Respondent:

None