



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**FINAL DECISION**

OAL DKT. NO. EDS 11796-23

AGENCY DKT. NO. 2024-36448

**O.H. ON BEHALF OF E.H.,**

Petitioner,

v.

**HASBROUCK HEIGHTS BORO**

**BOARD OF EDUCATION,**

Respondent.

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**O.H.**, petitioner, pro se

**Jessica Kleen**, Esq., for respondent (Machado Law Group, attorneys)

Record Closed: December 9, 2023

Decided: December 11, 2023

BEFORE **BARRY E. MOSCOWITZ**, CALJ:

**STATEMENT OF THE CASE**

This decision addresses a motion to dismiss under N.J.A.C. 1:1-1.3(a) and R. 4:6-2(e) for failure to state a claim upon which relief can be granted.

## **FINDINGS OF FACT**

Based on the documents submitted concerning this motion to dismiss, I **FIND** the following as **FACT**:

E.H. is a student eligible to receive special education and related services. During the 2020–21 school year, E.H. was registered in the Manalapan-Englishtown Regional School District. On August 28, 2023, E.H. was no longer registered in the Manalapan-Englishtown Regional School District. On August 28, 2023, E.H. was registered in the Hasbrouck Heights Public School District.

On August 30, 2023, petitioner filed a request for due-process hearing with the Department of Education, Office of Special Education (OSE), against respondent. In that request for due-process hearing, petitioner alleges that E.H. did not receive a free appropriate public education (FAPE) from March 2020 to September 2021 and that E.H. should receive compensatory education for that time. Petitioner does not allege that E.H. was registered or domiciled in the Hasbrouck Heights Public School District from March 2020 to September 2021.

On October 3, 2023, respondent moved to dismiss the case under N.J.A.C. 1:1-1.3(a) and R. 4:6-2(e) for failure to state a claim upon which relief can be granted.

On November 1, 2023, 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.

## **CONCLUSIONS OF LAW**

Respondent argues that this case must be dismissed because it cannot be held responsible for alleged deprivations of FAPE for students who were not registered in its school district during those relevant times. Respondent, of course, is correct. Each

district board of education is responsible for providing a FAPE to students with disabilities aged three through twenty-one provided those students are domiciled within the school district. N.J.A.C. 6A:14-1.1(d); N.J.A.C. 6A:22-3.1.

In this case, even after giving petitioner every reasonable inference, the fact remains that E.H. was not registered in the Hasbrouck Heights Public School District from March 2020 to September 2021, the time when petitioner alleges E.H. was deprived of a FAPE. Petitioner does not even allege that E.H. was registered or domiciled in the Hasbrouck Heights Public School District from March 2020 to September 2021. Therefore, I **CONCLUDE** that respondent cannot be held responsible for any alleged deprivation of FAPE from March 2020 to September 2021 and that this case should 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 this case is **DISMISSED**.

This decision is final under 20 U.S.C. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2023) 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 (2023). If the parent or adult student believes that this decision is not being fully implemented regarding any program or service, this concern should be communicated in writing to the Director of the Office of Special Education.

December 11, 2023 \_\_\_\_\_

DATE

\_\_\_\_\_  
**BARRY E. MOSCOWITZ**

Acting Director and Chief ALJ

Date Received at Agency

December 11, 2023 \_\_\_\_\_

Date Mailed to Parties:

December 11, 2023 \_\_\_\_\_

dr