

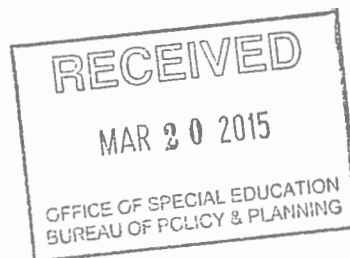


**TO: Peggy McDonald, Director (Fax: 609-984-8422)
Michael Stanton, Esquire (fax: 609-398-7838)**

FROM: Andrew J. Morgan

DATE: March 20, 2015

**RE: JD o/b/o ND v. Ocean City BOE
Agency Number: 2014-21218
OAL Dkt. No: EDS 8090-14**



Second Request for Enforcement of OAL Decision

15 pages faxed, including this cover



**NEW JERSEY DEPARTMENT OF EDUCATION
PARENTAL REQUEST FOR ENFORCEMENT OF DECISION
ISSUED
BY THE OFFICE OF ADMINISTRATIVE LAW**

Date **March 20, 2015**

RE: J.D. o/b/o N.D. v. Ocean City Board of Education
Agency Dkt. No: 2014-21218
OAL Dkt. No.: EDS 8090-14

To: **Peggy McDonald, Director**
Office of Special Education Programs
NJ Department of Education
P.O. Box 500
Trenton, NJ 08625-0500

Relationship to Student(s):

(Check One)

Parent/Guardian

Attorney

Advocate

From: **Andrew J. Morgan, c/o Morgan Associates for Children with Special Needs**

Address: **P.O. 425, Iselin, New Jersey 08830**

Phone: **(732) 277-6086** Fax: **(732) 548-7254** Email address:
Amorgan8@optonline.net

Please note: the Office of Special Education (OSEP) must have a copy of the ALJ's decision before any action can be taken with respect to a request for enforcement.

Is a copy of the final decision (or Order) issued by the Administrative Law Judge (ALJ) included with this request? Yes No If not, is a copy being sent by separate mailing? Yes No

What is the date of the ALJ's decision? **July 9, 2014**

Subsequent to issuance of the decision, have the parties reached any agreements that modify the decision or the terms of the Order? Yes No (If yes, explain below)

Note: If any part of the decision is modified by subsequent agreement of the parties, enforcement may not be sought with respect to that part of the decision.

When was the action that you are seeking to enforce directed to occur? **On or before July 31, 2014.**

Note: A request for enforcement must be made to the OSEP no later than the 90th calendar day from the date that the action directed in the hearing decision that is the subject of the enforcement was required to have occurred. If your request is untimely, the OSEP will not enforce the request.

Are you currently involved in, or have you recently requested, mediation or a due process hearing? Yes No

If you have recently requested mediation or a due process hearing, what is the subject of the disagreement?

Dispute centered a non-functional and non-compliant section 504. Student received multiple failing or poor grades when accommodations failed to be provided. Student has severe executive functioning deficits, and within the agreement daily before and after school sessions were to be provided to help the student learn skills and techniques for organization, support, and using information to support learning. The District failed to provide any daily support as agreed. The District went as far as to write to the petitioner stating they are looking for professionals to assist [redacted] son as the District acknowledged the student's severity with executive functioning. Since September, 5, 2014 and inclusive of all school days since the beginning of

the school year, the District has failed to comply with the Judge's Order. This is the 2nd such request for enforcement of this same case. The 1st enforcement request was finally closed on October 1, 2014 with a request to enforce sent to NJ-DOE on August 4, 2014.

Briefly state the specific provision (identify the page and paragraph) of the decision that you assert the education agency has failed to implement.

Please refer to page 3 (actual handwritten settlement) item #3 in the settlement agreement. It states:

“ Section 504 will be advised to include “daily” meetings with counselor to work on educational skills. It is the responsibility of N.S. to make [REDACTED] available for this accommodation. The 504 shall be revised to reflect a two week additional time period.”

Please see petitioner's log and accounting for daily sessions not delivered by the District.

504 calls for morning and afternoon meetings, daily, to assist N [REDACTED] with [REDACTED] organizational/executive functioning deficits.

Here's the timeline of services: 9/5 - 10/21 ~ Mrs Oves, guidance counselor, was assigned. Nick stopped in daily, as instructed, but Mrs Oves was only available about 20% of the time. She often had other students in office, was in a meeting, out in school building assisting others, etc. On or around 10/21, I wrote to her requesting an update in the methodology she was employing to assist N [REDACTED].

On our around 10/22, I received an email from matt carey. He stated they were concerned with the compliance of n [REDACTED]'s 504 with regard to the executive functioning, and as such, were switching this component over to their school psychologist, Dr. Davidow.

10/23 - 12/11 ~ Dr. Davidow was assigned the duty of meeting daily at the beginning and end of day to work on n [REDACTED]'s organizational skills. However, as in mrs oves case, dr d often had other commitments. On many occasions, he wasn't even in the school building when n [REDACTED] would arrive to see him. Their schedule was for N [REDACTED] to come at the end of lunch period, 11:45, not

morning and afternoon. THERE WAS ABSOLUTELY NO CONSISTENCY TO MEETING TIMES. Dr Davidow was in the process of teaching N to use a specialized pen for note-taking. Nothing ever came of this.

12/18- 12/23 ~ Matt Carey contacted me with regard to employing Dr. Buzz Mingnin, but instead, Tony DiCesare, another member of DiNovi & Assoc. Met with N. Lots of long talks resulted in a print-out of a daily planner for one class, AP GOVERNMENT. Sometimes he would call our text to see 'how things were going'

1/5 - present

~ Mr DeCesare met with N once, on 2/6. I believe he also spoke with once in 2015.

N's 1st and 2nd report cards demonstrate the failure of the district to assist N. N received 'zeros' for assignment after assignment that were either overlooked by N or handed in late and not accepted. (N 504 allows for late submissions, but teachers don't adhere to this)

Part off the reason n assignments were late resulted due to the fact that mrs oves sent an email to ALL of teachers to send work home when had the flu. Only 2 complied.

Yesterday, I received an email requesting a day next week that I am able to come in at 10:45 to discuss N's 504. This time coincides with lunch period, so I'm assuming they're going to try to land blast N. But it's not going to happen. N will speak up for N. We had a terrible time

getting the scholarships together and [REDACTED] is VERY aware of [REDACTED] need to improve before college.

Upon receipt of a request for enforcement, the OSEP will forward a copy of the request to the district for response and, if appropriate, the opportunity to resolve the request with the parent. If the matter is not timely and satisfactorily resolved by the parties, however, the district will be directed to submit to the OSEP evidence of compliance, whereupon, the OSEP will determine the implementation of the decision. If it is determined that the district has failed to implement the decision, or part of the decision, the OSEP shall order the district to implement the decision or part of the decision, as appropriate.

Signature: _____

(Person(s) Submitting Request)

3/20/15

Mar. 13. 2015 11:58AM

No. 2916 P.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

DECISION APPROVING
SETTLEMENT

OAL DKT. NO. EDS 8090-14

AGENCY DKT. NO. 2014 21218

J.D. ON BEHALF OF N.D.,

Petitioner,

v.

**OCEAN CITY BOARD OF
EDUCATION,**

Respondent.

J.D. on behalf of N.D., petitioner pro se

Michael Stanton, Esq., for respondent (McCrosson & Stanton, attorneys)

Record Closed: July 7, 2014

Decided: July 9, 2014

BEFORE JOHN F. RUSSO, JR., ALJ:

This case arises under the Individuals with Disabilities Education Act, 20 U.S.C.A. §§1400 to 1482. The parties have voluntarily agreed to resolve all disputed matters and have entered into a settlement as set forth in the attached settlement agreement.

I have reviewed the terms of settlement and I **FIND:**

Mar. 13. 2015 11:59AM

No. 2916 P. 2

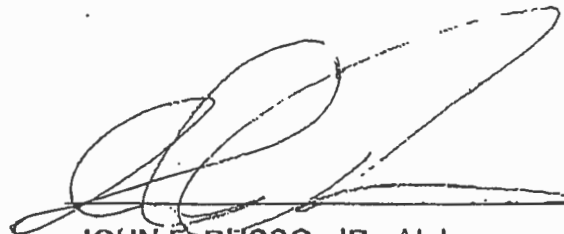
OAL DKT. NO. EDS 8090-14

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures on the attached settlement agreement.
2. The settlement fully disposes of all issues in controversy between them and is consistent with the law.

Therefore, I **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded.

This decision is final pursuant to 20 U.S.C.A. § 1415(i)(1)(A) and 34 C.F.R. § 300.514 (2012). 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.

July 9, 2014
DATE



JOHN F. RUSSO, JR., ALJ

Date Received at Agency: _____
Date Sent to Parties: _____

/bdt
Attachment

SD 0/6/0 NIS v. Ocean City Board of Education
DK No EDS-00098-14

SETTLEMENT AGREEMENT

THIS AGREEMENT made the 7th day of July 2014 between the Ocean City Board of Education - (~~Board~~ DISTRICT) and SD 0/6/0 ND (~~SD~~)

The parties agree to settle the above referenced matter pursuant to the following terms and conditions

1. The district has already filed the appropriate application the relevant party agencies for the IAT + IET and accommodation request have been accepted.
2. The district has provided copies of N.B.'s evaluation - educational, psychological and auditory processing screening
3. Section 504 will be revised to include "daily" meetings w/ Counselor to work on educational skills. It is the responsibility of NIS to make [redacted] available for this accommodation. The 504 shall be revised to reflect a two week additional time period.
4. The district shall ~~be provided~~ (July 31, 2014) for settlement.

*5 min -
10 min + PM

addresses the allegations set forth in the
attached two page document. SD shall
re-submit the work that work that was not
accepted at that work shall be graded
as if accepted on time. The tests that
were are marked on the individual
document shall be regraded and the
grade shall be recalculated without these
test results.

5. This Agreement shall resolve all
contending issues between the parties,
including but not limited to, any requests
for compensatory education.

6. The Ocean County Board of Education ~~shall~~ approve
~~and~~ is not required.

Ocean County Board of Education

Matthew C. Carey
By Matthew C. Carey

J.D. 0/5/0 ND

~~Signature~~
~~Signature~~



October 1, 2014

Cynthia Hoenes-Saindon
New Jersey Department of Education
Office of Special Education Services
PO Box 500
Trenton, New Jersey

RE: J.D. o/b/o N.D. v. Ocean City Board of Education (Enforcement)

Dear Ms. Hoenes-Saindon:

Please be advised that all areas and concerns regarding the enforcement of the above referenced case are resolved. Ms. Oves, Guidance, forwarded a fully adjusted and corrected transcript.

Please note that the petitioner withdraws her request to have the terms and conditions of the settlement agreement and Judge's order enforced.

Thank you for your assistance and guidance regarding this matter.

Sincerely yours,


Andrew J. Morgan

CC: Michael Stanton, Esquire

J. D. [REDACTED]

Friday, March 20, 2015 at 11:55:33 AM Eastern Daylight Time

Subject: RE: ND 504

Date: Tuesday, December 23, 2014 at 1:03:42 PM Eastern Standard Time

From: Matthew Carey

To: j d [REDACTED], Kathleen Taylor, Matthew Jamison

CC: Andrew Morgan, 'tony@brettdassociates.com'



Ms. Dagrosa,

Mr. Anthony DiCesare is a certified behavior specialist and works for DiNovi and Associates. Dr. Mingin was not available and Mr. DiNovi assigned Mr. DiCesare. Mr. DiCesare is a licensed attorney, but does not function in that capacity when working for our district; he is a behavior therapist. It is very troublesome for me that you are constantly thinking we are up to something when all Mrs. Oves, Dr. Jamison, Dr. Davidow, our contracted service providers and myself want to do is help your [REDACTED]

Mr. Matthew C. Carey
Director of Special Services
Ocean City School District
(609) 399-1290 ext. 8753
Fax: (609) 399-8257
Please note email change: mcarey@ocsdnj.org

"Committed to Excellence"

From: j d [REDACTED] [mailto:[REDACTED]]
Sent: Tuesday, December 23, 2014 12:50 PM
To: Matthew Carey; Kathleen Taylor; Matthew Jamison
Cc: Andrew Morgan
Subject: Re: ND 504

Mr Carey,

Neither I nor my [REDACTED] consented to a consultant/lawyer reviewing [REDACTED] personal files. As stated in the enclosed email I received from you, the name of the DOCTOR was Dr. Mingin.
Please clarify immediately.

J [REDACTED] D [REDACTED]

On Mon, Dec 15, 2014 at 9:02 AM, Matthew Carey <mcarey@ocsdnj.org> wrote:
Good morning Ms. D [REDACTED]

We will be bringing in Dr. Mingin from DiNovi and Associates for a consultation. Once a treatment plan is developed we will contact you to review the plan.

Regards,

Mr. Matthew C. Carey

Director of Special Services
Ocean City School District
(609) 399-1290 ext. 8753
Fax: (609) 399-8257
Please note email change: mcarey@ocsdnj.org

"Committed to Excellence"

From: j [redacted] [mailto:[redacted]]
Sent: Friday, December 12, 2014 9:41 AM
To: Matthew Carey
Subject: RE: ND 504

Then you for your timely response. I received a duly signed and executed copy of the 504. I ALSO received the district's copy, containing only N [redacted] and my signatures, along with an art teacher's lesson plans. I do not need another copy, but I believe you may.

On Dec 12, 2014 7:53 AM, "Matthew Carey" <mcarey@ocsdnj.org> wrote:
Good morning Mrs. D [redacted]

I will look into your request and concerns and get back to you without undue delay. Additionally, Mr. Boyle said that you requested the draft 504 that you and N [redacted] signed to be mailed back to you. A fully executed and signed by all stakeholders 504 accommodation Plan is being mailed to you today.

Regards,

Mr. Matthew C. Carey
Director of Special Services
Ocean City School District
(609) 399-1290 ext. 8753
Fax: (609) 399-8257
Please note email change: mcarey@ocsdnj.org

"Committed to Excellence"

From: j [redacted] [mailto:[redacted]]
Sent: Thursday, December 11, 2014 1:27 PM
To: Matthew Carey

Cc: Tobi Oves; Matthew Jamison; Kathleen Taylor
Subject: ND 504

Dear Mr Carey,

I am requesting you bring in a behavior specialist to work with N [REDACTED], as [REDACTED] organizational skills have not improved under Dr. Davidow's guidance. Right now [REDACTED] has 5 missing assignments and is failing 4 classes.

Dr. Davidow is rarely available, which is not surprising considering he is the psychologist for all schools in the district. He has been able to coordinate handing in of late assignments and being a mediator between N [REDACTED] and [REDACTED] teachers, but the goal is for N [REDACTED] to develop the skills [REDACTED] needs in order to accomplish [REDACTED] work and hand it in on-time independently.

I received the revised 504. It was accompanied by the district's unsigned copy, (except mine and N [REDACTED] signatures), and two pages of lesson plans from the art teacher???

I look forward to your timely reply.

Sincerely,

J [REDACTED] D [REDACTED]

I will accept this email correspondence as consent to implement the revised 504. We will begin the revised accommodation for executive functioning without undue delay. Dr. Davidow will be meeting with N [REDACTED] to set up a daily schedule and Dr. Jamison will be ensuring that everyone is aware of the accommodation in case [REDACTED] is little late for 1st period or needs to leave the last period of the day a few minutes early. We will closely monitor N [REDACTED]'s progress and if needed we will bring in a behavior specialist to work with N [REDACTED].

Of note, Ms. Palmer is out on a leave of absence. Mr. William Boyle is her replacement while she is out. He is also the 504 chair for the High School, but I will be closely monitoring N [REDACTED]'s 504 and Mrs. Oves continues to be [REDACTED] case manager.

Regards,

Mr. Matthew C. Carey

Director of Special Services

Ocean City School District

(609) 399-1290 ext. 8753

Fax: (609) 399-8257

Please note email change: mcarey@ocsdnj.org

“Committed to Excellence”



From: j [redacted] d [redacted] [mailto:[redacted]]
Sent: Wednesday, October 22, 2014 4:22 PM
To: Matthew Carey
Subject: Re: ND 504

Sounds like a great idea. [redacted] needs assistance immediately.

On Oct 22, 2014 12:16 PM, "Matthew Carey" <mcarey@ocsdnj.org> wrote:

Good afternoon Ms. D [redacted],

In speaking with Mrs. Oves and High School Administration, we are very concerned about the accommodation in N [redacted]'s 504 plan that addresses executive functioning. We feel that we need a more specialized professional to implement this accommodation that has a background in executive functioning disabilities and organizational patterning. Please see the attached, proposed, revised 504 plan. The proposed changes are highlighted for your review. Please let me now your thoughts so we can get this started without undue delay.

Regards,

Mr. Matthew C. Carey

Director of Special Services