State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FINAL DECISION
OAL DKT. NO. EDS 05208-26
AGENCY DKT. NO. 2026-40705

D.G. AND J.G. ON BEHALF OF V.G.,
Petitioners,
v.
MORRIS SCHOOL DISTRICT BOARD OF EDUCATION,
Respondent.

D.G. and J.G., petitioners, pro se

David B. Rubin, Esq., for respondent Morris School District Board of Education (Busch Law Group, LLC, attorneys)

Record Closed: May 8, 2026 Decided: May 13, 2026

BEFORE **ADVIA KNIGHT FOSTER**, ALJ:

STATEMENT OF THE CASE

Petitioners, D.G. and J.G., filed an emergent application and underlying due process petition seeking stay put and return of their son, V.G., by respondent, the Morris School District Board of Education (District), to the last-agreed-upon placement with supports and compensatory education. I decided the consolidated emergent and

expedited petitions and denied their claims, leaving no further issues. Should the underlying due process petition seeking the same relief be dismissed? Yes. Res judicata precludes a party or its privies from relitigating claims that were adjudicated by a final decision. Watkins v. Resorts Int'l Hotel & Casino, 124 N.J. 398 (1991).

PROCEDURAL HISTORY

On March 27, 2026, D.G. and J.G., on behalf of their son V.G., filed a request for due process hearing, together with an application for emergent relief, with the Office of Special Education (OSE). In their request for a due process hearing, the family asks for stay put, return to last-agreed-upon in-school placement, implementation of appropriate in-school supports, and compensatory education. In their application for emergent relief, the family asks for stay put, a return to the last-agreed-upon in-school placement, and implementation of appropriate supports pending resolution of the due process petition. On April 6, 2026, 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. The case was assigned OAL docket number EDS 05136-26.

On April 8, 2026, the District filed a request for an expedited due process hearing together with an application for emergent relief. In its request, the District asks for home instruction pending resolution of the expedited due process case. On April 9, 2026, the OSE transmitted the case to the 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. The case was assigned OAL docket number EDS 05665-26.

On April 15, 2026, I consolidated the cases on the record and the parties appeared for oral argument on their applications for emergent relief. On April 16, 2026, I entered an order of consolidation.

On April 16, 2026, I denied the family's application for emergent relief, granted the District's application for emergent relief, and allowed the District to amend its petition to reflect that the individualized education program (IEP) dated April 7, 2026, is superseded by the IEP dated April 8, 2026.

On April 17, 2026, I held the hearing, and on April 20, 2026, I closed the record after the parties submitted their closing statements. On April 30, 2026, I granted the District's expedited petition.

On April 29, 2026, the OSE transmitted the underlying due process case to the 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. The case was assigned OAL docket number EDS 05208-26. On May 5, 2026, I held a prehearing conference call and the parties agreed that all issues had been adjudicated in EDS 05136-26 and EDS 05665-26 and that this petition should be dismissed. On May 7, 2026, the District filed a motion for summary decision. On May 7, 2026, petitioners filed their opposition, and on May 8, 2026, they filed a supplement to their opposition.

FINDINGS OF FACT

Based on the papers respondent submitted in support of its motion for summary decision, and the opposition submitted by petitioners, and reviewing them in the light most favorable to petitioners, I **FIND** the following as **FACT** for purposes of this motion only:

V.G. is a sixteen-year-old special education student classified as eligible for special education and related services under the disability category "other health impairment." Over the course of the 2025–26 school year, V.G. engaged in disruptive, aggressive behavior that came to a tumultuous end on March 12, 2026. On March 12, 2026, the District imposed a four-day suspension. On March 13, 2026, the IEP team met and placed V.G. on home instruction pending a psychiatric evaluation. On April 7, 2026, the IEP team received the psychiatric evaluation and held an IEP meeting and recommended

out-of-district placement and home instruction, but reconvened on April 8, 2026, and held another IEP meeting to allow the parents to review the psychiatric evaluation and recommended an out-of-district placement with an emotional regulation impairment (ERI) program while on home instruction.

D.G. and J.G.'s emergent application and due process petition sought stay put, return to last-agreed-upon in-school placement after their son V.G.'s four-day suspension, implementation of appropriate in-school supports, and compensatory education.

The District filed an emergent and expedited application seeking home instruction and an order changing V.G.'s placement to an out-of-district school with home instruction until a suitable out-of-district school is located.

In this case, both parties agree that all the issues in the due process petition have been adjudicated and that the underlying due process petition should be dismissed. They differ, however, as to how the case should be closed. The District filed a motion for summary decision, asserting that there are no material issues in dispute and that it is entitled to a dismissal as a matter of law, and, further, that the doctrines of res judicata and collateral estoppel preclude the relitigation of issues that were or could have been litigated. The parents argue that the only thing needed is a "simple procedural" order closing the file.

CONCLUSIONS OF LAW

A motion for summary decision "shall be served with briefs and with or without supporting affidavits," and the 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." N.J.A.C. 1:1-12.5(b).

Res judicata precludes a party or its privies from relitigating claims that were or could have been adjudicated by a final decision. Selective Ins. Co. v. McAllister, 327 N.J.

Super. 168, 172 (App. Div. 2000). For res judicata to apply, (1) the judgment in the prior action must be valid, final, and on the merits, (2) the parties in the later action must be identical to or in privity with those in the prior action, and (3) the claim in the later action must grow out of the same transaction or occurrence as the claim in the earlier one. Watkins v. Resorts Int'l Hotel & Casino, 124 N.J. 398, 412 (1991). The doctrine "contemplates that when a controversy between parties is once fairly litigated and determined it is no longer open to relitigation." Lubliner v. Bd. of Alcoholic Beverage Control, 33 N.J. 428, 435 (1960). Res judicata serves the purpose of "finality and repose; prevention of needless litigation; avoidance of duplication; reduction of unnecessary burdens of time and expenses; elimination of conflicts, confusion and uncertainty; and basic fairness." First Union Nat'l Bank v. Penn Salem Marina, Inc., 190 N.J. 342, 352 (2007) (quoting Hackensack v. Winner, 82 N.J. 1, 32–33 (1980)).

The doctrine of collateral estoppel is an equitable remedy that "bars relitigation of any issue which was actually determined in a prior action, generally between the same parties, involving a different claim or cause of action." In re Liquidation of Integrity Ins. Co., 214 N.J. 51, 66 (2013) (quoting N.J. Div. of Youth & Fam. Servs.v. R.D., 207 N.J. 88, 114 (2011)). For collateral estoppel to apply, the party asserting the bar must show that (1) the issue to be precluded is identical to the issue decided in the prior proceeding; (2) the issue was actually litigated in the prior proceeding; (3) the court in the prior proceeding issued a final judgment on the merits; (4) the determination of the issue was essential to the prior judgment; and (5) the party against whom the doctrine is asserted was a party or in privity with a party to the earlier proceeding. Olivieri v. Y.M.F. Carpet, Inc., 186 N.J. 511, 521 (2006) (quoting In re Estate of Dawson, 136 N.J. 1, 20–21 (1994)).

In petitioners' opposition to the motion for summary decision in this case, they misunderstood and misstated my view of the underlying due process petition as a procedural issue. Quite the contrary, the underlying due process claim cannot be brought and it is precluded since all the issues were already adjudicated.

In my emergent decision, petitioners argued that V.G. suffered irreparable harm because the District unilaterally changed his placement to home instruction and he was not receiving counseling and other services, and I found that the remedy for such

deprivation is compensatory education for any services missed. That is not irreparable. I concluded that sending V.G. back to school will likely cause irreparable harm to the District and other students, and that the District has met its burden of showing this legal requirement. Regarding the petitioners' request for stay put, I concluded that stay put was not appropriate and that the District met its burden in establishing that it was dangerous for V.G. to be in his current placement and that maintaining V.G. in that placement is substantially likely to result in injury to himself and others. Honig, 484 U.S. at 328. I further concluded that the District, not D.G. and J.G., had a likelihood of success on the merits of the case for placement of V.G. in an interim alternative educational setting for forty-five days. Finally, I concluded that when balancing the safety and welfare of the staff and students against the hardship on V.G., the welfare of the students and staff outweighed the interest of V.G. In my expedited decision I found that the District implemented exhaustive measures during the 2025–26 school year and I concluded that in-district placement is not appropriate for V.G.'s needs and an out-of-district placement offering an ERI program is appropriate. I further concluded that because the in-district program is not appropriate, there is no need to address whether it is the least restrictive.

The issues set forth in this underlying due process claim are similar to those raised in the emergent application and expedited petition. Also, the same parties that were involved in the emergent and expedited cases are the parties in the present due process claim before me. The facts set forth in the underlying due process petition are identical to those set forth in the consolidated cross-applications for emergent relief and the expedited petition. The parties concede that all issues have already been adjudicated and decided on the merits either by way of my order dated April 16, 2026, on the parties' cross-applications for emergent relief in EDS 05136-26/EDS 05665-26 (consolidated) or by way of my final decision dated April 30, 2026, in EDS 05665-26/EDS 5136-26 (consolidated), and therefore the underlying due process petition is barred by collateral estoppel and res judicata. A preclusion of the underlying due process petition is paramount here to prevent needless litigation and avoidance of duplication. Therefore, I

CONCLUDE that the consolidated order on the parties' cross-applications for emergent relief and the consolidated final decision bar the relief sought in the underlying due process petition under res judicata and collateral estoppel. I have already made a

final decision including my findings of fact and conclusions of law and I **CONCLUDE** that there are no genuine issues of material fact. Therefore, I **CONCLUDE** that respondent is entitled to summary decision as a matter of law.

ORDER

I **ORDER** that the District's motion for summary decision is **GRANTED** and that this case 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 (2026). 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.

May 13, 2026
DATE

ADVIA KNIGHT FOSTER, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

AKF/tc

APPENDIX

Witnesses

For petitioners:

None

For respondent:

None

Exhibits

For petitioners:

Response in opposition to Morris School District motion for summary decision, dated May 7, 2026

Supplemental opposition dated May 8, 2026

For respondent:

Letter Brief for summary decision on the basis of res judicata and collateral estoppel dated May 7, 2026