

**ILLINOIS STATE BOARD OF EDUCATION
IMPARTIAL DUE PROCESS HEARING**

PT, a minor, by and through
His/her Parent(s),
Student

v.

Case No. 2021-DP-0022

██████████
School District ██████████,
District.

Mary Jo Strusz
Impartial Hearing Officer

FINAL DETERMINATION AND ORDER

JURISDICTION

The undersigned has jurisdiction over this matter pursuant to the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1400 *et seq.* and the Illinois School Code, 105 ILCS 5/14-8.02a *et seq.*

PROCEDURAL BACKGROUND

The Petitioner (“Parent”) is the parent of PT (“Student”), a seven -year old student, who was a student at a ██████ school during the school year 2018-2019, and received an initial IEP on March 11, 2019 under the disability category of speech or language impairment. Student has not been enrolled in the District since the end of the fourth quarter for school year 2018- 2019 and currently resides in another Illinois district. The Parent represented herself *pro-se*.

The Parent filed a due process complaint (“DPC”), which was received by the District on September 1, 2020. The Illinois State Board of Education (“ISBE”) appointed the undersigned as the hearing officer (“IHO”) on September 8, 2020. The IHO issued an initial status call letter, preliminary order, and hearing process guideline

on September 8, 2020. The District filed a Notice of Insufficiency on September 11, 2020. On September 16, 2020, the IHO issued an Order finding the DPC insufficient, and granting Parent leave to file an amended due process complaint on or before September 30, 2020.

On September 30, 2020, the Parent filed an Amended Due Process Complaint (“ADPC”). On October 15, 2020, the District filed a Notice of Insufficiency. The IHO found the ADPC sufficient on October 18, 2020.

A status conference was held on October 21, 2020. During the conference, the parties advised the IHO that they did not wish to participate in mediation or resolution; the prehearing conference was scheduled for November 10, 2020, and hearing dates were scheduled for November 30 and December 1, 2020. The District was given until October 28, 2020 to file a Response to the ADPC. The Notice of Prehearing Conference and Order was issued October 21, 2020.

The parties waived resolution on October 22, 2020. The District’s Response was filed October 28, 2020.

On November 10, 2020, from 10:00 a.m. to 12:00 p.m., the IHO held a prehearing conference using Zoom™ video conferencing. Disclosures were filed timely by both parties. During the prehearing conference, two issues were certified for hearing. The parties confirmed hearing dates and times. The parties submitted a joint request to extend the 45-day decision timeline to accommodate the agreed-upon dates. The joint request was granted and the decision timeline was extended to December 16, 2020.

On the five-day disclosure date, each Party exchanged and provided the IHO with an electronic copy of their proposed exhibits (there were no joint exhibits submitted). Each Party timely filed a witness list. A printed copy of the exhibits was delivered to the IHO in accordance with the Prehearing Report and Order.

The hearing took place on November 30 and December 1, 2020 using Zoom™ video conferencing. An official court reporter was provided by the District for all hearing dates. The hearing was closed to the public.

At the conclusion of the hearing, documents offered into evidence by either Party, which were not objected to or which were admitted over objection, were admitted into evidence. IHO admitted the following exhibits- For Parent: P-27; P-28; P-30; P-32; P-33; P-53, 54, 55; P-56 to P-61; and P-63. For the District: D-1; D-2; D-3; D-4; D-5; D-6; D-7; D-8; D-9; D-10; and D-17. Proposed exhibits submitted at the five-day disclosure deadline but not expressly enumerated above were not admitted into evidence and were not considered in the preparation of this final Determination and Order.

In addition to the Parent's personal testimony, the Parent presented six witnesses:¹ 1) Network Chief at [REDACTED] 2) Social Worker ("HCSW") from new district; 3) Psychologist from new district; 4) Speech Therapist from new district; 5) Second Grade Teacher ("2nd-Teacher") from new district; 6) First Grade Teacher ("1st-Teacher") from new district. The District presented three witnesses:² 1)

¹ To protect the privacy of the Student, Parent and District witnesses are disclosed on Appendix A.

² Id.

District Principal (“Principal”); School Counselor/Case Manager (“Case Manager”); and 3) Kindergarten Teacher (“K-Teacher”).

After the completion of all testimony, admission of evidence, and closing arguments, the hearing was concluded.

No written transcript has been provided, and this decision is based on the IHO’s personal notes and recollection. In rendering this decision, the IHO has considered all documents admitted into evidence, testimony by the parties’ witnesses, the parties’ opening statements and closing arguments³, as well as independent research. This decision was issued within ten calendar days, excluding Saturdays, Sundays, and any state holidays, after the conclusion of the hearing as required by Illinois law.⁴

ISSUES AND REMEDIES REQUESTED

This IHO certified the following issues at the Prehearing Conference for adjudication at the due process hearing:

a. **Issue One:** Whether the District failed to provide Student a free appropriate public education (“FAPE”) when it failed to evaluate Student following the Parent’s request; Parent specifically requested an evaluation regarding Student’s “wandering”.

District Response: The District maintains that it provided the Student FAPE. Parent requested a Speech evaluation in October 2018. Student’s IEP was finalized on March 11, 2019, indicating a disability of Speech or Language Impairment.

³ Copies of the closing arguments were provided to the IHO by the parties.

⁴ 105 ILCS 5/14-8.02a(g55)(5).

Student was to receive 30 minutes of direct speech services every week. The IEP was implemented during the time the Student was enrolled and attending a Chicago Public School. Student had a Safety Plan to address his “wandering”.

b. **Issue Two:** Whether the District failed to provide FAPE by creating a behavior intervention plan (“BIP”) for Student without Parent’s knowledge, implementing the BIP without her authorization, and refusing to include the BIP in Student’s IEP.

District Response: The District maintains that it provided Student with FAPE. Student was eligible for an IEP under the disability category of Speech or Language Impairment. Student receives thirty minutes of direct speech services in a separate setting weekly and spends the rest of the week in a general education setting. Student’s disability does not necessitate a Behavior Intervention Plan under IDEA, nor was one implemented without the Parent’s authorization.

Relief requested: The Parent requests the following relief for the violations: The District fund compensatory education services; travel for the services, additional speech therapy, and placement in private schooling.

BURDEN OF PROOF

The Parents have the burden of proof on all issues raised in their Complaint, as set forth above.

The District has a statutory duty to present evidence that the special education needs of the Student, while enrolled in the District, was adequate, appropriate, and available.⁵

FINDINGS OF FACT

After considering all the evidence, as well as the arguments of counsel, the IHO's Findings of Fact as are follows:

1. Student started Kindergarten at the District school in September of 2018.⁶ When Student entered Kindergarten, Parent was aware that Student needed speech therapy. Parent verbally asked the school principal for a speech evaluation, and received no response.⁷ Parent researched evaluations, found out that she needed to make a written request, and on October 15, 2018 provided the District with a signed, written request asking that Student be assessed for his speech.⁸ On November 5, 2018, the Parent signed a consent for initial evaluation.⁹

2. At a meeting on November 7, 2018, the District proposed a Student Safety Plan ("Safety Plan #1). Parent testified the basis for the safety plan was Student wandering, however Safety Plan #1 states the basis for the plan as: "[Student] reported that a student was physically aggressive toward him in school."¹⁰ There is no reference in Safety Plan#1 to Student wandering.¹¹ Parent was unwilling to sign Safety Plan #1

⁵ 105 ILCS 5/14-8.02a (g-55).

⁶ Parent testimony.

⁷ Parent testimony.

⁸ Parent testimony and D-5.

⁹ Parent testimony and D-7.

¹⁰ D-3(015).

¹¹ D-3.

during the November 7, 2018 meeting.¹² Parent testified she refused to sign because she had requested a full evaluation for Student.¹³ However, she did sign Safety Plan #1 on December 18, 2018.¹⁴ Safety Plan #1 specifies that no functional assessment/behavior intervention plan is available.¹⁵

3. Parent testified that the school reported Student was wandering and that in response she requested he be evaluated.¹⁶ Parent testified she had a copy of this request but did not include it in the record.¹⁷ During cross examination, Parent reiterated she had a written evaluation request for wandering but did not include it in the record.¹⁸ Other than the October 2018 written request for a Speech evaluation, the record contains no other written request for any evaluations.

4. On January 23, 2019, a new principal was appointed to Student's school.¹⁹ The Principal's credible testimony was that she met with Parent a minimum of thirty times between her appointment and June 2019.²⁰ The meetings dealt with Student's safety plan, IEP, and other school related issues. During an initial meeting, Parent met with Principal to discuss Student's wandering. Parent alleged she asked Principal to provide the full evaluation of Student which she requested from the previous principal on

¹² Parent testimony and D-3 (018).

¹³ Parent testimony.

¹⁴ D-3 (018).

¹⁵ D-3 (018).

¹⁶ Parent testimony.

¹⁷ Parent testimony.

¹⁸ Parent testimony.

¹⁹ Principal testimony.

²⁰ Principal testimony. Student left the District after the fourth quarter June 2019.

November 2018,²¹ and in response Principal requested a new safety plan.²² Principal credibly testified Parent never asked her to have Student evaluated.²³

5. Principal reviewed Safety Plan #1. Safety Plan #1 did not include a behavior intervention plan (“BIP”). Principal testified some student safety behavior plans do include a BIP, however, Safety Plan#1 did not.²⁴ Typically after a safety plan is instituted, a behavior intervention plan is created to make sure specific interventions are given to address the behavior which necessitated the safety plan.²⁵

6. The Assessment Plan meeting and Eligibility Determination Meeting took place on January 28, 2019.²⁶ The Assessment Plan identified only one relevant assessment, Communication Status, and explicitly referenced the phonological sounds Parent identified as deficient in Parent’s October 15, 2018 evaluation request.²⁷ No other relevant domains were identified.²⁸ Student was found eligible for special education services under the identified disability of speech or language impairment,²⁹ and the parties identified a mutually agreeable date to hold the IEP meeting.³⁰

7. On February 1, 2019, the Case Manager drafted a proposed BIP (“Draft BIP”) for Student.³¹ The Draft BIP was based on behaviors identified when a new safety plan was requested.³² The Draft BIP was created based on information from discussions

²¹ Mother testimony.

²² Mother testimony.

²³ Principal testimony.

²⁴ Principal and Case Manager testimony. Exhibit D-3 (015) and D-4 (019).

²⁵ Principal’s testimony.

²⁶ D-8 and D-10.

²⁷ D-10 (030) and Parent testimony.

²⁸ D-8.

²⁹ Parent testimony and D-10 (038).

³⁰ D10 (042).

³¹ Case Manager testimony.

³² Case Manager testimony.

with Student's teachers, not firsthand observations.³³ Parent was told the Draft BIP could be created without a parent's knowledge if it was in the best interest of the child.³⁴ The Draft BIP was shared with Parent and Principal to open discussions on how to provide additional interventions and strategies to support Student.³⁵ Case Manager explained this to Parent and further explained she was providing the Draft BIP for Parent's review.³⁶ Parent stated she was not interested in Student receiving a BIP.³⁷ Case Manager removed the Draft BIP from Student's [REDACTED] file, did not distribute it beyond Parent and Principal, and did not discuss it with anyone else.³⁸ Parent demanded the Draft BIP not be included in the Student's records.³⁹

8. On February 7, 2019, a new safety plan (Safety Plan #2) was created for Student; this plan was designed to address Student's wandering.⁴⁰ Safety Plan #2 ensures that an adult had "eyes on [Student] at all times throughout the day" and included a morning check-in and an afternoon check-out. Safety Plan #2 designated alternate persons to support Student if someone was not present. Safety Plan #2 included keeping daily memorandums of check-ins on the Student.⁴¹ Safety Plan #2 acknowledges that Student was found eligible for speech services on 1/28/2019.⁴² The brief description of behaviors states: "[Student] wanders away from class. [Student]

³³ Case Manager testimony.

³⁴ Mother testimony.

³⁵ Case Manager testimony.

³⁶ Case Manager testimony.

³⁷ Case Manager testimony.

³⁸ Case Manager testimony.

³⁹ Principal testimony

⁴⁰ Principal testimony and Exhibit D-4.

⁴¹ Principal testimony and Exhibit D-4 (page 020).

⁴² Exhibit D-4 (page 019).

also has a history of hiding from adults.”⁴³ Parent signed Safety Plan #2 on February 7, 2019.⁴⁴ Parent did not request Student be evaluated for behavior at this meeting.⁴⁵

9. Safety Plan #2 did not address Student’s academic performance, and Student’s academics were not an issue.⁴⁶ A safety plan addresses behaviors, and an IEP addresses disabilities that prevent a student from accessing educational curriculum. Any student can have a safety plan.⁴⁷

10. Principal never received a request from Parent to evaluate Student for wandering behavior.⁴⁸ Case manager never received an evaluation request from Parent to address wandering or for a full evaluation of Student.⁴⁹ Principal’s and Case Manager’s testimony is found credible.

11. An IEP meeting was held on February 11, 2019. The IEP provided Student with 30 minutes per week of direct speech/language services and 15 minutes monthly of consultation services.⁵⁰ Student remained in the general education setting for the remainder of Student’s classes.⁵¹ Parent refused to sign Student’s IEP because Parent believed the Case Manager had created a BIP for Student.⁵² Principal dismissed the Case Manager from the meeting and talked to Parent, explaining that there was no BIP

⁴³ Exhibit D-4 (page 019).

⁴⁴ Exhibit D-4 (page 023).

⁴⁵ Principal’s testimony.

⁴⁶ Principal testimony.

⁴⁷ Principal testimony.

⁴⁸ Principal testimony.

⁴⁹ Case Manager testimony.

⁵⁰ D-1 (009).

⁵¹ Id.

⁵² Parent testimony.

for Student.⁵³ Parent was agitated, and Principal asked Parent to leave the building.⁵⁴ The IEP remained unsigned as of March 25, 2019.⁵⁵

12. K-teacher took over Student's kindergarten class in February 2019. She believed Student was an introvert, bright, liked helping people, was always willing to help, and was an average student. Student stayed on task and was on track with the [REDACTED] and State of Illinois mandated kindergarten curriculum. K-teacher was aware of Student's Safety Plan #2 and implemented the plan; she did not have problems with Student wandering. K-teacher was never asked to implement a BIP and did not implement a BIP for Student. Parent never asked K-teacher to request an evaluation for wandering or any other evaluation for Student. She was not aware of any other teachers requesting an evaluation for Student.⁵⁶ K-Teacher testimony is credible.

13. Parent continued to believe Student had an unauthorized BIP.⁵⁷ At a meeting on March 6, 2019, Principal told Parent there was no information in Student's records about a BIP. Together, Principal and Parent opened the District's computer information system and reviewed Student's records. There was no evidence in Student's electronic records that Student had a BIP.⁵⁸ Parent refused to believe the electronic record, and Principal requested someone from Network 9⁵⁹ provide Parent the information.⁶⁰

⁵³ Principal testimony.

⁵⁴ Principal testimony.

⁵⁵ Parent testimony and P-32.

⁵⁶ K-Teacher testimony.

⁵⁷ Parent testimony.

⁵⁸ Principal testimony.

⁵⁹ The District is divided into networks. The networks share information.

⁶⁰ Principal testimony.

14. On April 24, 2019, Principal scheduled a meeting with Parent to provide documentation from Network 9 that Student did not have a BIP, as well as answer other record requests made by Parent.⁶¹ During the meeting, Parent called the police department and requested the police escort Student from the building. The police refused, and school security escorted Student out of the building. Student was given an early dismissal.

15. Parent stated that Student's report card evidenced that Student's grades for quarter 4 show that he is stagnant, and this evidenced further proof Student needed additional evaluations.⁶² The report card also shows the 4th quarter had 47 reporting days and Student had 31 unexcused absences.⁶³

Student currently:

16. Student moved to another Illinois school District ("New School") for school year 2019-2020.⁶⁴

17. School Psychologist at New School observed Student remotely on October 6, 2020 and found he was off task at some points. School Psychologist requested more observations.⁶⁵

18. The Speech Therapist at New School started working with Student in August of 2019 and provided Student with therapy based on the [REDACTED] IEP.⁶⁶ Speech Therapist found Student's speech was age appropriate in August 2019, but she continued to work

⁶¹ Principal testimony.

⁶² Parent testimony and D17 (056).

⁶³ D17 (055) and Principal testimony.

⁶⁴ Parent testimony.

⁶⁵ School Psychologist testimony.

⁶⁶ School Psychologist testimony.

on articulation.⁶⁷ Speech Therapist testified Student is now age appropriate and she has no concerns for Student at this time.⁶⁸

19. The New School 1st-Teacher testified Parent had told her about Student's wandering, but she never had any problems, and Student did not have a safety plan at New School.⁶⁹ Initially, Student did not know all the sight words or sounds, which 1st-Teacher testified is not unusual for a first grader.⁷⁰ She was unaware Student had an IEP, but knew he was receiving speech services.⁷¹ She did spend additional time in a guided reading group helping Student and some other children in the classroom with reading. This happened 3-4 times per week for about 10-15 minutes.⁷²

20. The New School's 2nd-Teacher has concerns about Student's reading deficits, but Student is on task with the other student's in the classroom.⁷³

CONCLUSIONS OF LAW AND DISCUSSION OF THE ISSUES

Based on the above factual findings, the Parties' arguments, and relevant case law, the Hearing Officer's conclusions of law and discussion of the issues in this case are as follows:

- I. Whether the District failed to provide Student a free and appropriate public education ("FAPE") when it failed to evaluate student following Parent's request, which specifically requested an evaluation regarding Student's wandering**

⁶⁷ Speech Therapist's testimony.

⁶⁸ Speech Therapist's testimony.

⁶⁹ 1st Teacher testimony.

⁷⁰ 1st Teacher testimony.

⁷¹ 1st-Teacher testimony.

⁷² 1st Teacher testimony.

⁷³ 2nd Teacher testimony.

Parent first alleges that the District failed to provide Student a FAPE by failing to evaluate Student when Parent requested an evaluation based on Student's wandering.

The Individuals with Disabilities Education Act ("IDEA") "requires States receiving federal funds to make a free appropriate public education ("FAPE") available to all children with disabilities residing in the State. *Forest Grove School District v. T.A.*, 557 U.S. 317, 230, 129 S.Ct. 2484, 2492 174 L. Ed.2d. 168 (2009). The IDEA is designed "to ensure that all children with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living." 20 USC §1400(d)(1)(A). In order to implement this goal, the IDEA provides for an evaluation of disabled children and the development of an individualized education program ("IEP") for the disabled child which is developed, reviewed, and periodically revised per the child's special education needs. §1400(d)(1)(A)(1). A district must ensure that a "full and individual initial evaluation" is conducted before providing special education and related services to a child with a disability. 20 USC Sec. 1411 (a)(1)(A); 34 CFR 300.301(a). A parent, district, or state educational agency may request an initial evaluation to determine whether the child has a disability. 20 USC §. 1411 (a)(1)(B); 34 CFR 300.301(b). Each school district shall develop and make known to all concerned persons procedures by which an evaluation may be requested. 23 IAC 226.110 (a). The [REDACTED] Procedural Manual Guidance on Providing Special Education and Related Services to Students with Disabilities Pursuant to the Individuals with Disabilities Education Act requires all request for a full and individual evaluation must be submitted to the principal or the local school district representative in writing and be

signed and dated. (Page 19)⁷⁴ Within 14 school days after receiving a request for an evaluation, the district shall determine whether an evaluation is warranted, and the conclusion must be transmitted to the parents along with a request for consent to conduct the needed assessments. 23 IAC 226.110(c) (3) (C). No later than 60 school days following the date the parent signs the written consent to perform the needed assessments, the determination of eligibility shall be made, and the IEP meeting shall be completed. 23 IAC 226.110(d).

The evidence presented in this matter fails to support Parent's allegation that the District failed to evaluate Student when she requested an evaluation of him based on his wandering. In fact, the testimony offered at hearing supports by preponderance of the evidence a finding that Parent never requested the District to perform an evaluation of Student based on his wandering. The only evidence offered at hearing to support this allegation is the testimony of Parent, who testified that, when the school reported that Student had been wandering, she requested in writing that Student be evaluated by the school.⁷⁵ Parent, however, did not offer in support a copy of that written request for inclusion in the record, and no written request for an evaluation based on wandering was presented at hearing. The only written request for an evaluation of Student offered in evidence was Parent's signed, written request asking that Student be assessed for possible speech disability.⁷⁶ Additionally, Parent's testimony is rebutted by the credible testimony of the Principal and Case Manager of the District school Student attended, as well as Student's kindergarten teacher, who each testified that they never received a

⁷⁴ Procedural Manual 2018-2019 school year.

⁷⁵ FOF – 1.

⁷⁶ FOF – 1.

request from Parent to evaluate Student for his wandering behavior or for a full evaluations.⁷⁷ In fact, Principal testified that she met with Parent a minimum of 30 times between January 2019 and June 2019, and during those meetings Parent never requested an evaluation of Student.⁷⁸ Additionally, the District School's actions in addressing Student's wandering lend support and buttress the credibility of the Principal, Case Manager, and K-Teacher's testimonies on this issue. When Principal learned of Parent's concern for Student's wandering during her initial meeting with Parent, the school created and implemented Safety Plan #2⁷⁹ in February 2019; Safety Plan #2 was written to specifically address any potential ability of Student to wander.⁸⁰ Notably, Parent signed off on this safety plan on February 7, 2019.⁸¹ Clearly, the School's prompt and affirmative actions to address Parent's concern for Student's wandering further erode the credibility of Parent's allegation that she requested an evaluation based on wandering.

The evidence presented at hearing shows that during Student's kindergarten year, the District was responsive to Student's special education needs as well as Parent's concerns involving Student's education. In October 2018, when Parent submitted a written request to the District asking that Student be assessed and evaluated for a possible speech/language disability, the District responded within fourteen school days.⁸² Within sixty (60) schools days of receiving Parent's informed consent,⁸³ the

⁷⁷ FOF – 4, 10, 12.

⁷⁸ FOF - 4.

⁷⁹ Student' initial safety plan, approved by Parent on December 18, 2018, was implemented because of the Student reported that another student had been physically aggressive towards him at school. FOF – 2.

⁸⁰ FOF-8.

⁸¹ FOF-8.

⁸² FOF 1.

⁸³ FOF 11.

District did a full speech language evaluation of Student, and at a January 2019 assessment and eligibility determination meeting found Student eligible for special education services under the disability of speech or language impairment.⁸⁴ An IEP meeting was held in February 2019, and the resulting IEP provided student with speech language services in his least restrictive environment to address his speech language disability.⁸⁵ The services provided Student under the IEP continued through the remainder of the 2018-2019 school year, and the New School in another district where Student is currently enrolled has continued Student's speech therapy based on the District's IEP.⁸⁶ Student is on task with the other students in his second grade class.⁸⁷ The Speech Therapist has no concerns for Student.⁸⁸

In conclusion, the District timely complied with the IDEA and State regulations. There is insufficient evidence to establish that Parent made a written request, or any request, for an evaluation based on wandering.

This Hearing Officer finds the District has met its burden and presented sufficient evidence that the special education needs provided to Student was in compliance with Federal and State law. The Parent provided insufficient evidence that she made a request for a full evaluation and has not met her burden on this issue.

II. Whether the District failed to provide FAPE by creating a behavior intervention plan (“BIP”) for Student without Parent’s knowledge, implementing the BIP without her authorization, and refusing to include the BIP in Student’s IEP

⁸⁴ FOF – 1, 6.

⁸⁵ FOF – 11.

⁸⁶ FOF – 18.

⁸⁷ FOF 20.

⁸⁸ FOF 18.

Parent next alleges Student was denied FAPE because the District created a BIP for student without her knowledge, implemented the BIP without her authorization, and refused to include the BIP in Student's IEP.

When a student's "behavior impedes the [student's] learning or that of others," the student's IEP team must consider developing a "behavioral intervention plan" which puts in place "positive behavioral intervention and supports, and other strategies, to address that behavior." 34 CFR § 300.324(a)(2).; 20 USC § 1415(k)(1). Though there is no legal requirement for a district to obtain parental consent before a BIP is developed and drafted, a district should ensure that the student's parents are part of the process. *Belmont Public Schools*, 49 IDELR 209 (SEA MA 2007).

This allegation, too, is without merit. A review of the evidence admitted at hearing reveals that on February 1, 2009 Student's Case Manager created a preliminary draft BIP - which identified Student's fidgeting, inattention, and lack of focus in class and suggested possible strategies to address those behaviors to help Student stay on task in the classroom – and presented the draft to Parent, telling Parent it was for her review to facilitate a discussion of possible strategies and interventions that would support Student.⁸⁹ Parent objected to the draft, stated she was not interested in Student receiving a BIP, and demanded that the draft not be included in Student's records.⁹⁰ The case manager only distributed the draft BIP to Parent and the Principal. Thereafter, the Case Manager removed the draft BIP for Student's █████ file, and the draft was never included in Student's IEP.⁹¹ Also, the draft BIP was never finalized or its proposed

⁸⁹ FOF – 7, P. 53-55.

⁹⁰ FOF – 7.

⁹¹ FOF-7

strategies implemented.⁹² Parent complains that the draft BIP was created without her knowledge, implemented without her authorization, and not included for her request in Student's IEP. There exists no requirement under the IDEA that the District obtain Parent's authorization to draft a BIP for Student, and, at Parent's request, the BIP was never finalized or implemented. The District appropriately drafted the BIP in an attempt to address and find solutions for Student's educationally disruptive behavior, and distributed the draft to Parent so she could be involved in the decision-making process for determining what services and strategies are appropriate for the special educational needs of her child. Quite simply, the allegations of the District's alleged wrongdoing set forth in this issue are not grounded in fact.

This IHO finds that Parent has not met her burden on Issue Two.

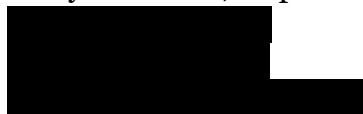
ORDER

Based upon the above Findings of Fact and Conclusion of Law, it is hereby ordered:

1. The Parent's claims and relief are hereby denied

Dated: December 14, 2020

/S/Mary Jo Strusz
Mary Jo Strusz, Impartial Hearing Officer



NOTICE OF RIGHT TO REQUEST CLARIFICATION

⁹² FOF – 11.

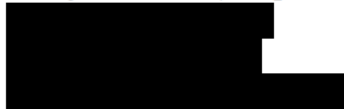
Pursuant to 105 ILCS 5/14-8.02a(h) either party may request clarification of this decision by submitting a written request to the Hearing Officer within five (5) days of receipt of the decision. The request for clarification shall specify the portions of the decision for which clarification is sought. A copy of the request shall be mailed to all other parties and the Illinois State Board of Education, Program Compliance Division, 100 North First Street, Springfield, IL 62777. The right to request clarification does not permit a party to request reconsideration of the decision itself and the Hearing Officer is not authorized to entertain a request for reconsideration.

NOTICE OF RIGHT TO APPEAL

This is the final administrative decision in this matter. Pursuant to 105 ILCS 5/14-8.02a(i), any party aggrieved by this Hearing Officer Determination may bring a civil action in any state court of competent jurisdiction or in a District Court of the United States without regard to the amount in controversy within one hundred and twenty (120) days from the date the decision is mailed to the party.

Dated: December 14, 2020

/S/Mary Jo Strusz
Mary Jo Strusz, Impartial Hearing Officer



APPENDIX A

NAME	TITLE	ACRONYM
[REDACTED]	Deputy Chief at [REDACTED]	Network Chief
[REDACTED]	Social worker at [REDACTED] District [REDACTED]	HCSW
[REDACTED]	Psychologist at [REDACTED] District [REDACTED]	Psychologist
[REDACTED]	Speech Therapist at [REDACTED] District [REDACTED]	Speech therapist

[REDACTED]	Second Grade Teacher at [REDACTED] District [REDACTED]	2 nd - Teacher
[REDACTED]	First Grade Teacher at [REDACTED] District [REDACTED]	1 st -Teacher
[REDACTED]	Interim Principal at [REDACTED] School	Principal
[REDACTED]	School Counselor and Case Manager at [REDACTED] School	Case Manager
[REDACTED]	Kindergarten Teacher at [REDACTED] School	K-Teacher

**CERTIFICATE OF SERVICE BY EMAIL AND
CERTIFIED UNITED STATES POST OFFICE MAIL**

I the undersigned, Mary Jo Strusz, certify that on December 14, 2020, a copy of the FINAL DETERMINATION AND ORDER, was served upon the following persons via email transmission by attached document in pdf format to the email addresses below and a copy of the printed document with original signatures were placed in the United States Postal Service, Certified Mail and address to the parties at the addresses below:

District:

[REDACTED]

Parents:

[REDACTED]

Illinois State Board of Education:

Mr. Andy Eulass
Due Process Coordinator
100 N. First St.
Springfield, IL 62777-0001
AEulass@ISBE.net

December 14, 2020

/S/ Mary Jo Strusz
Mary Jo Strusz, Impartial Hearing Officer

[REDACTED]

