

ILLINOIS STATE BOARD OF EDUCATION  
SPECIAL EDUCATION DUE PROCESS HEARING

IN THE MATTER OF

████

v.

████ CHSD # █████

) ISBE CASE NO. 2024-DP-0127

)

) **D. Michael Risen, PhD**

) Impartial Due Process

) Hearing Officer

**Introduction**

1. The DPCN came before the IHO on or about January 30, 2024.<sup>1</sup>
2. On February 1, 2024, the IHO provided the parties with his professional background that included connections to the District, the Special Education Coop and the attorneys representing the District. The IHO offered to recuse himself if the Parent preferred. The Parent responded with an appreciation for the IHO's transparency and indicated that the Parent did not see a need for recusal.<sup>2</sup>
3. On February 1, 2024, the IHO provided the parties with an initial packet of information as required by the Appropriate Standard Practices.<sup>3</sup>
4. On February 2, 2024, the parties reached a partial agreement on some of the issues but did not resolve all of the issues.<sup>4</sup>
5. On February 6, 2024, the District filed the State resolution form indicating the parties waived resolution in favor of State sponsored mediation.<sup>5</sup>
6. On June 3, 2024, the District filed the required preliminary disclosure documents and on June 9, 2024, the Parent filed the required disclosure documents for the upcoming PHC.<sup>6</sup>
7. On June 13, 2024, the IHO provided the parties with a summary/order of the recently completed PHC.<sup>7</sup>

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<sup>1</sup> Hearing officer exhibits are identified as "IHO" followed by the exhibit/page number; the parties submitted a joint exhibit book. Appendix A includes all personally identifiable information.

<sup>2</sup> See IHO Exhibit (2) p. (6-7).

<sup>3</sup> See IHO Exhibit (3) p. (8-31).

<sup>4</sup> See IHO Exhibit (54) p. (138).

<sup>5</sup> See HO Exhibit (10) p. (46-50).

<sup>6</sup> See IHO Exhibits (45) & (50) pp. (112-115) & (127-129).

<sup>7</sup> See IHO Exhibit (52) pp. (131-135).

8. On July 5, 2024, the Parent provided the IHO and the District with information relative to the Parent's new legal counsel.<sup>8</sup>
9. On July 17, 2024, the Parent filed a motion to amend the DPCN.<sup>9</sup>
10. On July 18, 2024, the IHO filed the order denying the Parent's motion to amend the DPCN.<sup>10</sup>

### **Jurisdiction**

11. The IHO conducted the hearing and rendered a decision in the DPCN pursuant to the Individuals with Disabilities Education Act (IDEA)<sup>11</sup> 20 U.S.C. §§ 1400 *et. Seq.*, and its implementing regulations, 34 C.F.R. §§ 300.1 *et. Seq.*, and the Illinois School Code, 105 ILCS 5/14-8.02a *et. Seq.*, and its implementing regulations, 23 Ill Admin. Code § 226.0 *et. Seq.*

### **Background**

12. At the time of the filing of this DPCN, the complaint involved a 15-year-old male Student who only attended one day of school (Freshman Orientation) at ██████ CHSD # ██████ since matriculating from the eighth grade. Eventually, the District identified the Student as a student with an Emotional Disability that constituted the Student's primary eligibility category with ADHD secondary. The IEP team determined that a therapeutic day school constituted the Student's educational placement. The Parent filed the DPCN to challenge that determination.

### **Issues and Proposed Relief**

13. During the pre-hearing conference, the parties certified one remaining issue. Did the District deny the Student a FAPE in the LRE by:<sup>12</sup> recommending the Student's placement as a therapeutic day school?
14. Should the preponderance of the evidence support the Parent, the Parent seeks the following relief:

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<sup>8</sup> See IHO Exhibit (73) p. (174).

<sup>9</sup> See IHO Exhibit (82) p. (190-192).

<sup>10</sup> See IHO Exhibit (85) pp.(196-198).

<sup>11</sup> In 2004, Congress reauthorized the Individuals with Disabilities Education Act as the Individuals with Disabilities Improvement Act. See Pub. L. No. 108-446, 118 Stat. 2647 (Dec. 3, 2004), effective July 1, 2005. The amendments provide that the short title of the reauthorized and amended provisions remains the Individuals with disabilities Education Act. See Pub. L. 108-446, § `0', ``8 Stat. at 2647; 20 U.S.C. §1400 (2006) ("This chapter may be cited as the 'Individuals with Disabilities Education Act.'").

<sup>12</sup> See IHO Exhibit (54) p. (138).

- i. Order the District to convene an IEP team meeting and design a program for the Student in a special education program at █████ CHSD # █████ that meets the Student's needs as a student eligible with an emotional disability as primary and secondary with ADHD.<sup>13</sup>

### **Parent's Argument**

The Parent argues that the District placed the student in a 'homebound' placement for approximately nine months and that District witnesses agreed this was a change in the Student's educational placement.<sup>14</sup> The Parent also argues that the District, "at all relevant times,"<sup>15</sup> new of the Student's prior identification as a student with a disability. The Parent states that the District knew of the Student's prior identification as a student with an eligibility identification as Other Health Impairment (OHI) and potentially Emotional Disturbance (ED). Despite this awareness, the Parent argues the District failed to initiate any proceedings to investigate whether the Student required special education services. Rather, the Parent argues, that the District required that the Parent consent to a psychological assessment to determine the Student's "dangerousness."<sup>16</sup> The Parent also noted that the District informed the Parent of a choice of either suspension or expulsion if the Parent did not consent to the proposed assessments. Parent references the Parent's prior consent to a full special education evaluation during the Student's 5<sup>th</sup> grade year while attending the elementary school district known as █████ Elementary School District █████. The Parent also notes the Parent's consent to the District's proposed evaluation completed by two separate independent clinical psychologists.<sup>17</sup>

The Parent argues that while the District acknowledges the Parent provided written permission for the requested evaluations, the Parent insisted the evaluators limit their assessment to autism spectrum disorder (ASD).<sup>18</sup> The Parent further notes the District failed to ask the Parent about this limitation during the Parent's testimony at the hearing and that the written record fails to demonstrate the

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<sup>13</sup> *Id.*

<sup>14</sup> *See* IHO Exhibit (93) at , p. 229.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* At p. 228.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* At p. 229.

District's asserted limitations.<sup>19</sup> Thus, the Parent argues, the District failed to meet the evaluation requirements of the IDEA that require districts to assess students in all areas of the suspected disability.<sup>20</sup> Further, the Parent argues that the District failed to timely evaluate the Student since the Parent provided written consent on September 5, 2023 and the District did not complete the evaluation in the required 60 school days.<sup>21</sup>

The Parent also argued that the District's decision to place the Student on homebound instruction adversely impacted the timing and scope of the District's independent educational evaluations (IEE) at public expense. Further, the homebound placement delayed the implementation of any special education services for the Student.<sup>22</sup> Further, the Parent argues that the District failed to implement additional investigations after the Student informed the first independent evaluator that a former girlfriend initiated blackmail tactics directed towards the Student and that the same Student had been stalking his family and her new boyfriend threatened the Student at his home with bodily harm.<sup>23</sup> The Parent argues that the online threats the Student made connected directly to this behavior by Student's former girlfriend.<sup>24</sup> Parent then alleges that the Student's former girlfriend "apparently knew that Student would never talk about his experiences with abuse and neglect, but that District administrators would jump when she disclosed his anonymous online chat threats."<sup>25</sup>

The Parent also argued that the District designed a Functional Behavior Assessment (FBA) and Behavior Intervention Plan (BIP) for the Student "without meeting or observing the Student, without assessing his behavior across various settings and across times."<sup>26</sup> Finally, the Parent argues that the District's failure to specify a placement for the Student was also inappropriate and seeks an order that requires the District to conduct an IEP team meeting to determine the appropriate level of services for the Student at [REDACTED] High School and to determine if any

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* At pp. 230-231.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* At p. 229.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* At p.232.

<sup>26</sup> *Id.*

services are required to remediate the Student's lack of services during the 2023-24 school year.<sup>27</sup>

### **District's Argument**

First, the District notes that the ultimate burden of persuasion is for the Parent to prove that the District's proposed placement is not appropriate.<sup>28</sup> The District summarizes the District's legal position as follows: "(the Student) came to the District's attention on August 24, 2023, when a report was made to District administration that (the Student) had posted a shooting video on social media site Discord with the caption 'forgot my gun at home, didn't shoot anyone today [emoj] jk' after attending [REDACTED] (freshman orientation) at [REDACTED] Community High School ('PCHS') on August 22, 2023. The subsequent Threat Assessment and special education evaluations revealed that (the Student) had a history of behaviors going back to 4<sup>th</sup> grade that included sexual harassment of female peers, disrespectful and disruptive behavior in class, threatening behavior directed at peers, throwing objects at peers, racial harassment, and verbal threats against peers. (The then PCHS principal) further testified that (the Student's) aggressive behaviors appeared to be escalating, based on a fight (the Student) was involved in at [REDACTED] Junior High that the principal there called 'the worst he had ever seen,' a series of Discord posts over the summer of 2023 in which (the Student) threatened sexual violence against a peer and culminating in the shooting post on [REDACTED]."<sup>29</sup>

The District noted that the District must operate in a "practical, real-world standpoint" and thus cannot ignore a student's threat to bring a gun to school. The District further argues that making such a threat on the first day at a new school "is very alarming."<sup>30</sup> The District notes that the due process complaint notice (DPCN) filed by the Parent alleged a single issue, placement. The District further noted that the District's recommended placement constitutes a placement that provides "better crisis intervention and de-escalation services than can be provided at PCHS." In terms of the recommended placement at a TDS, the District noted that PCHS lacks the level of security that a TDS provides and cannot provide the level of crisis intervention training and procedures that a

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<sup>27</sup> *Id.*

<sup>28</sup> *See* IHO Exhibit (92) at p. 216.

<sup>29</sup> *Id.* At p. 217.

<sup>30</sup> *Id.*

TDS provides.<sup>31</sup>

In addition to the District's concerns relative to the Student's history of verbal and physical aggression and the Student's threats of gun violence, the Student's social and emotional learning needs became the "real driving factor behind the IEP team's placement decision. And there is no question ... that the Student's social and emotional needs are significant and require intensive and immediate attention."<sup>32</sup>

The District further asserts that the IEE completed at District expense paints a picture of the Student as a student with "a strong tendency toward post-traumatic stress disorder (PTSD) making it 'likely (the Student) is experiencing the emotional, behavioral and neurological consequences of PTSD.'"<sup>33</sup> The District also emphasized that the IEE completed for the Student lacked important information about the Student's behavioral history due to the Parent not providing the information either through interview or by providing records of the Student's past behavior issues and that the Student denied such issues in his life.<sup>34</sup>

The District pointed out that the IEP team concluded that the Student required counseling to address a "skill deficit"<sup>35</sup> that limits the Student's ability to "regulate his emotions, behaviors, and impulsivity."<sup>36</sup> Further testing completed by the District revealed that the Student "struggles with impulse control, controlling his emotional response, and regulating emotions and behaviors."<sup>37</sup>

The District argued that evidence and testimony demonstrate the Student requires "intensive, consistent support services throughout his day to teach him necessary skills and provide immediate feedback and support if he is struggling to control his emotions."<sup>38</sup> The District argues that such level of service can only be provided by a TDS where trained staff can more immediately respond to a crisis, provide counseling that is more intense to support the Student's "immediate social emotional needs."<sup>39</sup>

The District asserts that the Parent failed to provide any evidence that the proposed TDS placement was inappropriate other than the Parent's online search that

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<sup>31</sup> *Id.* At p. 218.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* At p. 219.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* At pp. 219-220

<sup>38</sup> *Id.* At p. 2120.

<sup>39</sup> *Id.* At p.221.

allegedly revealed parental complaints about the TDS known as Menta.<sup>40</sup> The District also noted that the Parent’s primary argument did not dispute the recommendations the District identified to address the Student’s needs, rather the Parent argued the District should essentially “re-create a therapeutic day school environment at PHCS for just (the Student).”<sup>41</sup>

Further, the District argues that the evidence submitted by the Parent from one of the IEE’s completed at public expense and the recommendations from the SASS (Screening Assessment and Support Services) counselor indicating the Student was the “least likely kid to ever be a threat” lack validity due to the fact that neither the IEE provider or the SASS counselor knew of the Student’s history of verbal and physical aggression since the 4<sup>th</sup> grade or the Student’s threats posted online.<sup>42</sup> Further, the District argued, that the evidence considered demonstrated that had the IEE provider known of this history that knowledge would have “factored into his conclusions.”<sup>43</sup>

Finally, the District argued that the Student’s response to bullying by threatening violence and engaging in physical aggression toward his peers reinforced the District’s recommendation that the Student’s program and services include immediate and intensive interventions to “teach him how to manage his emotions without resorting to violence.”<sup>44</sup>

### **IHO Findings of Fact**

After considering all the evidence as well as the arguments of counsel, this Hearing Officer’s Findings of Fact are as follows:

1. On October 3, 2018, the Student demonstrated a history of serious behavioral issues in the fourth grade including cussing, hands on peers, sexual comments toward peers, lack of responsibility for the Student’s actions, talking to himself, stalking a female student, and inappropriate language towards peers and adults.<sup>45</sup>
2. On February 16, 2019, the Student demonstrated continuing inappropriate behaviors as noted above.<sup>46</sup>
3. On November 20, 2019, the elementary district placed the Student on a school

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<sup>40</sup> *Id.*

<sup>41</sup> *Id.* At p. 222.

<sup>42</sup> *Id.* At p. 223.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* At p. 224.

<sup>45</sup> *See* Joint Exhibit (I) at p. SD-000121.

<sup>46</sup> *Id.*

- safety plan due to verbal and physical aggression towards a female student and physical aggression toward other students. The elementary school recommended a full case study evaluation and the Parent signed authority<sup>47</sup>
4. On January 18, 2020 the IEP team found the Student eligible for services under the category of Other Health Impaired (OHI) with an educational diagnosis of ADHD and Emotional Disability (ED) however IEP paperwork did not reveal why the IEP did not include eligibility as ED.<sup>48</sup>
  5. On or about March 1, 2020, due to Covid, all students began learning remotely.<sup>49</sup>
  6. On September 24, 2021, the Student stole a ruler, sharpened it to a point and thrust it at another student.<sup>50</sup>
  7. On October 4, 2021, the Student threw a rock at another student's head.<sup>51</sup>
  8. On or about October 1, 2020, the Parent revoked consent for all special education services.<sup>52</sup>
  9. On October 25, 2021, the Student broke open a pen and threw ink all over another student and the classroom."<sup>53</sup>
  10. On January 24, 2022, after the teacher told the Student he needed to raise his hand in class, the Student stood up and gave a Nazi salute.<sup>54</sup>
  11. On February 11, 2022, the Student told a female student that she had "a rotten pussy" and then told a group of female students "I love to eat cherry pie" (the female students reported this meant "virgin pussy")."<sup>55</sup>
  12. On March 22, 2022, the Student wore a Nazi arm band to school.<sup>56</sup>
  13. On April 22, 2022, the Student told another student the Student possessed a weapon and intended to use the weapon on another student. A search did not reveal that he possessed a weapon.<sup>57</sup>
  14. On October 3, 2022, the Student showed a piece of paper to other students that

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<sup>47</sup> *Id.* At p.SD000122.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at p. SD 000123

<sup>50</sup> *See* SD 000123.

<sup>51</sup> *Id.*

<sup>52</sup> *See* testimony of Dr. Ted Chapin and SD 000123.

<sup>53</sup> *Id.* At SD 000124.

<sup>54</sup> *See* Joint Ex (I) At p. 000124.

<sup>55</sup> *Id.* At p. SD 000124.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

- contained racial expletives.<sup>58</sup>
15. On November 14, 2022, the Student threw a rock inside the locker room.<sup>59</sup>
16. On December 16, 2022, the Student had his hands on another student.<sup>60</sup>
17. On March 6, 2023, the Student threw another student to the ground.<sup>61</sup>
18. On March 22, 2023, the Student placed another student in a choke-hold and began punching the other student.<sup>62</sup>
19. On August 11, 2023, a social media post sent to a female student by a person identified as ██████ and later confirmed to be the Student<sup>63</sup> reflected in the post: “master please-o let me have a bread frfr..., I asked nicely, just (sic) let me f██k u once, u are being so selfish frfr, I just want to f██k u doggy style ok?? just (sic) once i (sic) wont brag or tell anyone and nobody has to know and ill stop bothering u abt (sic) it. Just let me c██m on your ass or something please. The female student then responded “No my body only belongs to my bf”. The Student then responded “u only live once, and I wanna f██k u while I still can...come on live a little ur body belongs TO U.”<sup>64</sup> The social media posts from the Student then continued: “I’m tellin; I just kissed her and he know too; him ok whatever good for u ig; i’m going to f██kin r██pe you , and im going to c██m inside if u don’t shut up; and idc if you get pregnant; bc ur pissing me off; whatever; im gonna kill all of your nasty family when i am the dictator. your not a true blood german aryan like I thought. you know perhaps you have been blood poisoned into jewish descent; if that mattered so much I would care. But for your low life jewish tainted self it doesn’t, im done being nice anymore.”<sup>65</sup>
20. On August 17, 2023, the handle of ██████ again posted: “im (sic) going to do something that’ll make you all regret hating me. nobody (sic) will hate me anymore. I will make sure if it.”<sup>66</sup>
21. On August 22, 2023, the Student attended freshman orientation day at PCHS

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<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> See Dean’s testimony.

<sup>64</sup> See SD 000003.

<sup>65</sup> See SD 000004.

<sup>66</sup> See SD 000002.

known as ██████████<sup>67</sup>

22. On August 24, 2023, a female student from PCHS informed the Deans office that the Student displayed a social media post of a man shooting a weapon with the caption “forgot my gun at home, didn’t shoot anyone today.”<sup>68</sup> The Dean’s office then had another female student brought to the office for an interview. That student reported the following interaction between the female student and the Student: “I have thoughts.” The female student responded: “me too.” The Student then said “really bad ones where I do things to you and I don’t even wanna say.” The student reported that the Student stated that the thoughts are “really horrible.” The student reported that she prompted him to say them. The Student responded “I have thoughts about peeling ur skin off and wearing it and making ur face into a mask.”<sup>69</sup> The Dean’s office then had the Student escorted by the School Resource Officer (SRO) to the Dean’s office. When asked about the foregoing, the Student reported that the Student recognized that the administration was trying to get him to state specific statements which were made but he didn’t want to incriminate himself. He stated that his dad had given him that advice. The Student reported to the Deans that he had made inappropriate comments and that he should probably have consequences for them. The Student also reported that he has made various threats in the past: bombs, guns, mass violence and sexual assault. The Student further stated that he knows people think of him as the quiet kid that keeps to himself, has no friends, likes war and is like a “school shooter.” The Student described himself as a master manipulator and studies history to use past tactics. The Student reported that he did not have intent behind the words but that he wanted to seem powerful like God. The Student reported that he has thoughts that go through his head but doesn’t want to tell anyone about it. The Student reported that these incidents started in Jr. High School, after bullying occurred.<sup>70</sup> PCHS placed the Student in a homebound program with one hour per day of remote tutoring.<sup>71</sup>

23. On August 25, 2023, the PCHS Threat Assessment Team met to review the

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<sup>67</sup> See Dean’s Testimony.

<sup>68</sup> See p. SD 00001.

<sup>69</sup> See SD 000125.

<sup>70</sup> *Id.* And testimony of the Dean.

<sup>71</sup> See testimony of principal and the tutor.

incident. The team consisted of nine PCHS professionals including the principal, two assistant principals, special education coordinator, school psychologist, school counselor, school social worker and two SRO officers. The team completed the 18 page PCHS threat assessment form and determined that the Student posed a Priority Level 2 risk (High Risk) and determined the Student had a history of violence and interest in war/violence.<sup>72</sup> The team did not select a category of Priority Level 1 of Imminent Risk due to the Student's lack of a plan.<sup>73</sup> The team outlined the next steps which included: crisis screening, psychological evaluation by an outside source, collaboration with the parent on concerns, and home bound tutoring until the completion of the plan.<sup>74</sup> Also on this date, a representative from the Screening, Assessment and Support Services (SASS) agency completed an assessment of the Student. SASS represents a crisis mental health service program for students and adolescents who are experiencing a psychiatric emergency. The examiner's report concluded that the Student presented no concerns regarding harm to self or others. The examiner's report also reflected that the Parent did not share the school's threat assessment report with the examiner.<sup>75</sup>

24. On August 30 and 31, 2023, an outside clinical psychologist evaluated the Student. The report indicated a DSM-5 diagnosis of Conduct Disorder, Unspecified Onset, with limited prosocial emotions.<sup>76</sup> The evaluator noted: "When I have evaluated similar cases over the years, there was not a pattern of behaviors as there is with (the Student), and there was genuine contrition about unfortunate things said in the heat of the moment. That does not appear to be true with (the Student)."<sup>77</sup> The evaluator also noted: "This data is suggestive of someone who is severely disturbed and is a significant risk to others."<sup>78</sup> The Parent reported a lack of trust in the examiner due to the fact that the name of the examiner's firm included the term "[REDACTED]".<sup>79</sup> Further, the Parent vocalized the

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<sup>72</sup> See SD 000020 and Dean's testimony.

<sup>73</sup> *Id.*

<sup>74</sup> See Testimony of the Dean and the Principal.

<sup>75</sup> See SD 000024.

<sup>76</sup> See SD 000067.

<sup>77</sup> See SD 000066.

<sup>78</sup> See SD 000067 and the testimony of the Principal.

<sup>79</sup> See Father's testimony.

Parent's belief the examiner was "crazy." The Parent provided no foundation for this belief.<sup>80</sup> The Parent expressed a belief the Student's behaviors represented a response to bullying and prior abuse and neglect experienced by the Student.<sup>81</sup> The evaluation concluded that "this data is suggestive of someone who is severely disturbed and is a significant risk to others. He is not going to improve until he is willing to be open about his difficulties and to receive professional help for them. However, his own denial of his problems and his father's active support of this denial are not suggestive of improvement any time soon. He should be placed in an alternative school setting until he can consistently demonstrate prosocial, appropriate behaviors."<sup>82</sup>

25. On September 13, 2023, the IEP team met with the father to review the results of the recently completed IEE. The IEP team determined that the Student required a full special education evaluation for special education programming and services.<sup>83</sup> The Parent indicated approval for the evaluation. The Parent indicated that the Parent preferred the evaluation only investigate the potential for Autism as the eligibility category.<sup>84</sup> Five eighth grade teachers completed the Connor's Rating scales as those scales applied to the Student. Teacher concerns rated the Student in either the elevated or very elevated range and included emotional stress, social anxiety, defiant aggressive behaviors, social problems, and violence potential.<sup>85</sup>
26. On or about October 1, 2023, the Student voluntarily stopped participating in the homebound program provided by the District.<sup>86</sup>
27. On November 28, 2023, the [REDACTED] Special Education Association evaluated the Student utilizing the ADOS 2.<sup>87</sup>
28. On January 11, 2024, the IEP team met to review the evaluation results and the Student did not meet the criteria for Autism Spectrum Disorder. At the time, the Student did not qualify for special education services.<sup>88</sup>

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<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *See* SD 000067 and social worker's testimony.

<sup>83</sup> *See* SD 000125.

<sup>84</sup> *See* Special Education Coordinator's testimony and SD 000034.

<sup>85</sup> *See* SD 000078-000079.

<sup>86</sup> *See* Tutor's testimony.

<sup>87</sup> *Id.*

<sup>88</sup> *See* SD 000125-000126.

29. On January 19, 2024, the school reached out to the Parent expressing concern relative to the Parent's resistance to providing the Student with a private therapeutic day school at a facility known as [REDACTED], or in the alternative, to provide the Student with an accredited homeschool program that leads to credits towards graduation. The school informed the Parent that a failure to provide one or the other services to the Student could result in a report to the appropriate authorities and/or consideration of a recommendation to the Board of Education that the Board expel the Student for gross misconduct.<sup>89</sup> The Parent did not want the Student to attend [REDACTED] due to apparent negative reviews the Parent discovered in an online search.<sup>90</sup>
30. On January 24, 2024, the Parent filed the DPCN.<sup>91</sup>
31. On February 2, 2024, the IEP team met with the Father to discuss the issues in the DPCN. The District offered counseling for the Student but the Father declined. The Parent requested an IEE at public expense and the District agreed. The District provided the Parent with a list of evaluators and the Parent chose another clinical psychologist.<sup>92</sup>
32. On March 5, 2024, the Student and the Father completed the Behavior Rating Inventory of executive Function Rating Form-2<sup>nd</sup> Edition (BRIEF2). The Form is designed to measure an adolescent's self-control and problem-solving skills. The assessment presents three levels of results: mildly elevated, potentially clinically elevated and clinically elevated. The results of the Student's responses indicate 2/14 as potentially clinically elevated and 9/14 as clinically elevated. The results of the Father's input reflected no potentially clinically elevated scores and 10/14 as clinically elevated scores.<sup>93</sup>
33. On March 15, 2024, the Parent's selected clinical psychologist completed a second IEE at public expense.<sup>94</sup> The evaluator reported the Student shared that the Student spent 12 hours per day on video games. The evaluator indicated that a healthy level of video gaming includes 1-2 hours per day of video gaming.
34. On March 26, 2024, the IEP team met with the Father to review the results of the

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<sup>89</sup> See SD 000044 and testimony of the Principal.

<sup>90</sup> See Father's testimony.

<sup>91</sup> See IHO Exhibit (1) at p. 03.

<sup>92</sup> See SD 000126 and testimony of special education coordinator.

<sup>93</sup> See SD 000127.

<sup>94</sup> See SD 000128.

IEE. The evaluator's diagnosis included: ADHD, PTSD, Other OCD and Neurological Disorder due to Medical Condition.<sup>95</sup> The evaluator reported achieving limited results due to the Parent choosing not to share any school records or input from prior school staff. A thorough evaluation includes multiple sources of information, such as educational records, behavioral history, and input from teachers and parents. This helps create a complete picture of the student's needs and strengths.<sup>96</sup> The results were limited to the input of the Student and the Parent and the assessments completed.<sup>97</sup> The examiner concluded the Student did not pose a risk to the Student or others and that the Student could benefit greatly from weekly counseling sessions. The examiner acknowledged that had the examiner received the Student's prior school records and reports from the Student's teachers that the examiner's conclusions may have been different. The examiner also reported a lack of understanding as to why the Parent withdrew the Student from prior services in the elementary school system<sup>98</sup>

35. On April 19, 2024, the District completed an (FBA) and (BIP) for the Student. Information from the administered BRIEF 3 suggested the Student might sometimes become irritable quickly, have difficulty maintaining self-control when faced with adversity, have problems concerning social skills and communication, have difficulty controlling and maintaining his behavior and have difficulty overcoming stress and adversity. The FBA concluded that the Student's "history of emotional trauma, limited positive peer relationships, and impulsive tendencies impacts his ability to regulate his emotions and behaviors, therefore engaging in threatening behavior in order to be received as powerful."<sup>99</sup>

36. On April 30, 2024, the IEP team developed a BIP for the Student. The District included a crisis plan in the BIP.<sup>100</sup> The IEP team concluded the Student required a placement in a therapeutic day school (TDS) with small group specialized instruction in a highly structured program with a systematic behavior system in a private setting and does not participate with general education peers. The Student

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<sup>95</sup> See SD 000136 and testimony of Parent's selected clinical psychologist.

<sup>96</sup> See <https://www.apa.org/about/policy/guidelines-psychological-assessment-evaluation.pdf>

<sup>97</sup> See SD 000128 and testimony of Parent's selected clinical psychologist.

<sup>98</sup> See testimony of Parent's selected clinical psychologist.

<sup>99</sup> See SD 000141-000142 and SD 000185-187 And testimony of the school psychologist and social worker.

<sup>100</sup> See SD 000186.

should receive intensive behavior and social emotional supports to help reduce problematic behaviors.<sup>101</sup> The IEP team recommended a placement in a private TDS that includes special education programming for English, Math, Science, Social Studies, PE and Electives for a total of 1800 minutes weekly. Supplementary aids and services included a personal instructional assistant for 1440 minutes weekly, 30 minutes per week of individual counseling and transportation to and from the TDS and participation in Extended School Year Services (ESY).<sup>102</sup>

### **Conclusions of Law**

37. Based upon the IHO's Findings of Fact, the arguments of counsel, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are included herein.
38. The filed DPCN included a single issue: Did the District deny the Student a FAPE in the LRE by recommending the Student's placement as a therapeutic day school? The IDEA places an affirmative child-find responsibility on all school districts. The IDEA requires that all children with disabilities residing within a school district's boundaries, ... who are in need of special education and related services, are identified, located, and evaluated; and that districts develop a practical method to develop and implement a process to determine which children are either eligible or currently receiving needed special education and related services.<sup>103</sup> The IDEA regulations further require that the educational placement of a student with a disability, must be made by a group of persons, including the parents, and other persons knowledgeable about the student, persons who understand the meaning of the evaluation data, and a person or persons who understand and can share the placement options. The placement decision must also be made in conformity with the LRE provisions of the IDEA rules and regulations.<sup>104</sup> The evidence supports the conclusion that the District met these requirements as the District initiated evaluation procedures of the Special Education Cooperative and completed two IEEs at public expense, The evidence also supports that the District properly considered all three evaluations at

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<sup>101</sup> See SD 000189-000190.

<sup>102</sup> See SD 000188-SD000190.

<sup>103</sup> See 34 C.F.R. §300.111(a)(1)(i).

<sup>104</sup> See 34 C.F.R. §300.116 (a)(1-2).

- appropriately conducted IEP team meetings that included the Parent's input.<sup>105</sup>
39. Further, the IDEA requires that IEP teams make placement decisions to the maximum extent appropriate, that students with disabilities receive the student's education with students who are not disabled. The IDEA also allows for IEP teams to determine that "special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a student is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."<sup>106</sup> The evidence supports the conclusion that the District properly followed these procedures when making the termination of a placement at a TDS.<sup>107</sup>
40. To some extent, the IDEA statutes also address an IEP team's decision to place a student in a TDS over the objection of the parent. School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student with a disability who violates a code of student conduct. The IDEA provides authority for school personnel to recommend removal of a student with a disability who violates a code of student conduct to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days. The IDEA also provides schools with the authority to order a change in placement that would exceed 10 school days if school personnel determine that the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the student's disability.<sup>108</sup> In this instance, the evidence supports the fact that at the time the Student committed the act of gross misconduct, the District had no reason to believe the Student had an IEP and therefore did not qualify for any protection under the IDEA.<sup>109</sup>
41. As a result, the relevant disciplinary procedures applicable to students without disabilities may be applied to the Student in the same manner and for the same duration in which the procedures would be applied to students without disabilities. Eventually, the District took the appropriate steps to identify the Student as a student with a disability. The IDEA requires schools who make such a

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<sup>105</sup> See Findings of Fact 24, 25, 27, 28, 31, 33, and 34.

<sup>106</sup> See 20 U.S.C. § 1412 (5)(A).

<sup>107</sup> See Findings of Fact 1-23.

<sup>108</sup> See 20 U.S.C. § 1415 (k)(1)(C).

<sup>109</sup> See Findings of Fact 8 and 25.

determination when the student is a student with a disability who is removed from the student's current placement the student shall continue to receive educational services, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP.<sup>110</sup> The evidence supports that the District provided the Student with homebound services during the relevant period until the Student voluntarily ceased participating in the services provided by the District.<sup>111</sup> Further the IDEA requires that schools provide the student with services, and as appropriate, complete a functional behavioral assessment, and develop behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.<sup>112</sup> The evidence supports that the District met these requirements when the District conducted and completed the threat assessment,<sup>113</sup> provided homebound instruction,<sup>114</sup> and completed an FBA and BIP and included a safety plan for the Student.<sup>115</sup>

42. Further, the IDEA requires that schools, within 10 school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the school, the parent, and relevant members of the IEP Team (as determined by the parent and the local educational agency) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine if the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or if the conduct in question was the direct result of the local educational agency's failure to implement the IEP.<sup>116</sup> At the time the Student committed the act of gross misconduct, the Student did not have the protections of the IDEA. Thus, the District did not have any obligation to conduct a manifestation determination. Even so, the District paid for an IEE and assembled an IEP team and reviewed the IEE with the Parent. Further, at the request of the Parent, the District engaged the local special education cooperative to conduct another

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<sup>110</sup> See 34 C.F.R. §300.530 (1)(i)(ii).

<sup>111</sup> See Findings of Fact 23 & 26 and testimony of the tutor and the school Principal.

<sup>112</sup> See 34 C.F.R. §300.530 (f)(i)(ii).

<sup>113</sup> See Findings of Fact 23.

<sup>114</sup> *Id.*

<sup>115</sup> See Findings of Fact 35.

<sup>116</sup> See 34 C.F.R. §300.530(e)(i)9ii).

assessment and reviewed the assessment with the Parent. The Student did not qualify for special education services at the time. Thus, the evidence supports that the District complied with these requirements.<sup>117</sup> If the school personnel, the parent, and relevant members of the IEP Team make the determination that the student's conduct was a manifestation of the student's disability, the IEP Team must complete an FBA, and implement a BIP for the student.<sup>118</sup> In this instance, the initial IEP team determined that the data failed to support that the Student qualified as a student with a disability and thus, the Student did not qualify for special education programming and services.<sup>119</sup> A student who has not been determined to be eligible for special education and related services under the IDEA and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided under the IDEA if the school district had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. However, a local school district shall not be deemed to have knowledge that the student is a student with a disability if the parent of the student has not allowed an evaluation of the student or if the parent has refused services offered to the student.<sup>120</sup> The evidence supports the fact that when the Student entered PCHS as a Freshman on [REDACTED] the Student did not present as a student with a disability since the Parent had previously revoked consent for any services several years earlier when the Student attended [REDACTED] Elementary District [REDACTED].<sup>121</sup> If the school district did not have knowledge that the student qualified as a student with a disability prior to taking disciplinary measures against the student, the student may be subjected to disciplinary measures applied to students without disabilities who engaged in comparable behaviors.<sup>122</sup>

43. The Parent's argument fails to address the very significant history of inappropriate, and at regular intervals, dangerous behaviors demonstrated by the Student dating back to the fourth grade.<sup>123</sup> The documented dangerous behaviors included hands on peers, sexual comments toward peers, verbal and physical aggression towards

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<sup>117</sup> See Findings of Fact 25,27 and 28.

<sup>118</sup> See 20 U.S.C. §1415(E)(6).

<sup>119</sup> See Findings of Fact 28.

<sup>120</sup> See 20 U.S.C. §1415 (a)(5)(A)(B)(C).

<sup>121</sup> See Findings of Fact 6.

<sup>122</sup> See 20 U.S.C. §1415(5)(D)(i).

<sup>123</sup> See Findings of Fact 1-22.

peers and staff, sharpening a ruler and threatening a student with the point of the sharpened ruler, breaking an ink pen and throwing it on another student, throwing a rock at a student's head, giving the Nazi salute in class and wearing a Nazi arm band to school, utilizing graphic sexual terms towards female peers, on more than one occasion threatening to bring a weapon to school, expressed racial expletives, throwing a peer to the ground, placing a peer in a chokehold while punching the peer, threatening to rape a female student, harassing peers over alleged Jewish nationality, and stating the Student intended to do something that will make others regret hating the Student.<sup>124</sup> As noted by the school principal, school districts in this day and age have an obligation to take seriously any such behavior and to take steps to ensure that the Student is not only safe, but also the other students and staff who attend the school.<sup>125</sup> The evidence supports that the District acted appropriately to the aforementioned incidents.<sup>126</sup>

44. The IHO notes importantly that the Student's egregious behavior occurred on the first day of the Student's freshman year and therefore on the first day the student entered the PCHS district. At that point in time, the District did not have an obligation to treat the Student as a student with a disability since the Student entered the District without an IEP and there had been no documented request for an assessment for IDEA eligibility.<sup>127</sup> The Student's social media posts clearly rose to the level of gross misconduct and the District possessed the authority to recommend to the Board of Education the Student's expulsion. The Illinois School Code provides that students may be expelled when they are found to be guilty of gross disobedience or misconduct, including gross disobedience or misconduct perpetuated by electronic means. Further, the Illinois School Code provides that students may be expelled for making internet threats.<sup>128</sup> The evidence supports that while the District informed the Parent at some point in the process the Student could face expulsion procedures, the District's preference included either a program at a TDS or an online accredited program leading to graduation.<sup>129</sup>

45. Instead of expelling the Student, the District first completed a comprehensive 18-

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<sup>124</sup> *Id.*

<sup>125</sup> *See* testimony of the school Principal.

<sup>126</sup> *Id.*

<sup>127</sup> *See* Findings of Fact 8.

<sup>128</sup> *See* 105 ILCS 5/10-22.6.

<sup>129</sup> *See* Testimony of the school Principal and Findings of Fact 29.

page threat assessment completed by nine professional staff members trained to conduct such assessments.<sup>130</sup> As a result of the completed threat assessment, the threat assessment team determined the Student presented as a Priority II threat or High Risk.<sup>131</sup> At that point, instead of expelling the Student, the District placed the Student on homebound instruction and initiated an IEE at public expense with a credentialed clinical psychologist who practiced within the area.<sup>132</sup>

46. Within six days of the Student's demonstrated gross misconduct, the District completed an IEE at public expense. Upon receiving the evaluation completed by the clinical psychologist,<sup>133</sup> the District learned that the Student presented with a diagnosis of Conduct Disorder, unspecified onset, with limited prosocial emotions.<sup>134</sup> The evaluator concluded that the Student did not present as having any contrition for the Student's documented behaviors.<sup>135</sup> Further, the District learned the clinical psychologist believed that the Student presented as "someone who is severely disturbed and is a significant risk to others."<sup>136</sup> While the Parent asserted a lack of confidence in the evaluator's findings, the District learned that the overall impression of the Student as a result of the evaluation included that the Student demonstrated as one who was severely disturbed and a significant risk to others and likely would not improve without professional help. The evaluator recommended the Student's placement in an alternative school setting.<sup>137</sup>
47. As required by the IDEA, the District convened an IEP team meeting to review the IEE and consider the results with the Parent as an IEP team member. The IEP team concluded the Student should receive an evaluation for special education programming and services.<sup>138</sup> The Parent asked that the evaluation only focus on the potential for Autism Spectrum Disorder (ASD) even though five elementary teachers completed the Connors rating scale of the Student. The results of the input from the five eighth grade teachers reflected that the Student presented with elevated or very elevated levels of emotional stress, social anxiety, defiant

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<sup>130</sup> See Findings of Fact 23.

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> See Findings of Fact 24.

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> See Findings of Fact 25.

aggressive behaviors, social problems and violence potential.<sup>139</sup>

48. A few weeks after the IEP team meeting to review the clinical psychologist's report, the Student voluntarily ceased participation in the homebound instruction program.<sup>140</sup> Then, and consistent with the evaluation limitations insisted on by the Parent,<sup>141</sup> the District completed an evaluation of the Student utilizing the ADOS2 and the Student did not meet the criteria for a student with ASD and thus did not qualify for special education programming.<sup>142</sup> The District expressed a willingness to place the Student at a TDS that enrolled non-IEP students, or in the alternative, provide the Student with an accredited home-school program and reached out to the Parent to determine the reason(s) for the Parent's resistance to the two alternatives.<sup>143</sup> The Parent declined the offer to enroll the Student in the TDS.<sup>144</sup> Shortly thereafter, the Parent filed the DPCN.<sup>145</sup>
49. The IEP team then met again with the Parent and offered counseling for the Student, which the Parent declined.<sup>146</sup> The Parent asked for another IEE at public expense and the District agreed to provide the requested IEE and provided the Parent with a list of providers and the Parent made the selection.<sup>147</sup> As part of the IEE the Parent and Student completed the BRIEF2 and the results were significant.<sup>148</sup> The IEP team then met again to consider the results of the second IEE which reflected the Student's use of video gaming 12 hours per day and a diagnosis of ADHD, PTSD, Other OCD and a Neurological Disorder due to Medical Condition. The evaluator also reported that the Parent only provided limited background information on the Student and had the evaluator received the Student's full record the results would likely be different.<sup>149</sup>
50. At this point, the evidence supports that the District met the District's Child-Find<sup>150</sup> obligations.<sup>151</sup> After the IEP team meeting to review the second IEE, the District

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<sup>139</sup> *Id.*

<sup>140</sup> *See* Findings of Fact 26.

<sup>141</sup> *See* Findings of Fact 25.

<sup>142</sup> *See* Findings of Fact 27-28.

<sup>143</sup> *See* Findings of Fact 29.

<sup>144</sup> *Id.*

<sup>145</sup> *See* Findings of Fact 30.

<sup>146</sup> *See* Findings of Fact 31.

<sup>147</sup> *Id.*

<sup>148</sup> *See* Findings of Fact 32.

<sup>149</sup> *See* Findings of Fact 33.

<sup>150</sup> *See* Footnote 103.

<sup>151</sup> *See* Findings of Fact 23, 24, 25, 27, 28, 31, 33.

completed an FBA and a BIP for the Student and included a crisis plan for the Student.<sup>152</sup> The IEP team concluded the Student required placement in a TDS utilizing a systematic behavior system in a private setting with intensive behavior and social emotional supports including a personal instructional assistant, 30 minutes per week of individual counseling, transportation and ESY.<sup>153</sup> Thus, the evidence supports that the District met the District's obligation to determine the appropriate educational placement for the Student.<sup>154</sup>

51. Further, the evidence supports that the District met the IDEA's requirements for determining that a TDS placement constitutes the Student's LRE.<sup>155</sup> Even though the Parent objected to the placement in a TDS, the IDEA authorizes the District to make the TDS placement over the Parent's objection.<sup>156</sup> While the IDEA requires schools to educate students in the LRE with the student's non-disabled peers,<sup>157</sup> the IDEA also allows districts to remove a student from interacting with the student's non-disabled peers whenever such placement cannot be achieved with the use of supplementary aids and services.<sup>158</sup> Thus, and based on the evidence, the IHO concludes that the District met this legal obligation.<sup>159</sup>

52. The evidence also supports the severe clinical diagnoses of the Student and supports the District's determination of the Student exhibiting High Risk behaviors of harm to self or others.<sup>160</sup> The IDEA has provisions for districts to follow when making such a determination<sup>161</sup> and the IHO concludes that the evidence supports that the District met those IDEA requirements.<sup>162</sup> The IHO also concludes that the IDEA did not obligate the District to evaluate the Student for IDEA eligibility until the District received the results of the first IEE.<sup>163</sup>

53. The 7<sup>th</sup> Circuit has opined that an IEP that fails to address disability-related actions of violence and disruption in the classroom is not a reasonable IEP.<sup>164</sup> The evidence

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<sup>152</sup> See Findings of Fact 35 & 36.

<sup>153</sup> *Id.*

<sup>154</sup> See Findings of Fact 35&36..

<sup>155</sup> See Findings of Fact 33-36.

<sup>156</sup> See Paragraph 40.

<sup>157</sup> See Paragraphs 39-40.

<sup>158</sup> *Id.*

<sup>159</sup> See Testimony of the tutor, the special education coordinator and the school Principal.

<sup>160</sup> See Findings of Fact 23, 24, 25, 32 & 33.

<sup>161</sup> See Paragraph 39..

<sup>162</sup> See Findings of Fact 1-23.

<sup>163</sup> See Findings of Fact 24, 25, 27, 31, 33, & 34.

<sup>164</sup> See *Alex R. v. Forrestville Valley CUSD No. 221*, 221, 375 F.3d603, 613 (7<sup>th</sup> Cir. 2004).

supports the District developed an IEP specifically designed to address the Student's mental health issues.<sup>165</sup> The Parent argued that the District failed to construct an IEP that met the LRE requirements of the IDEA. However, courts have ruled that school districts are not required to so drastically modify a program in the sole interest of meeting the LRE requirements.<sup>166</sup> The evidence supports that the District could not accommodate the Student in the regular high school without making such drastic modifications.<sup>167</sup>

54. Perhaps the seminal case impacting a district's decision-making relative to special education programming and services was the *Rowley*<sup>168</sup> decision which established a two-prong process for FAPE identification. The first prong requires that school districts follow the rules and procedures of the IDEA. If the determination includes a finding in accordance with the first prong, the second prong requires that the IEP developed provide educational benefit to the Student. The Court further clarified the identification of the provision of a FAPE in the *Andrew F.*<sup>169</sup> decision where the Court added that the IEP must be crafted to enable the student to receive educational benefit in light of the student's unique circumstances. The evidence demonstrates that that the District followed the IDEA's mandated procedures for identification and IEP development and that the IEP developed provides the Student with educational benefit in light of the student's circumstances.<sup>170</sup> The IHO concludes that the evidence supports that the District met both prongs of the *Rowley* decision and the *Andrew F.* decision.<sup>171</sup>

55. Finally, the Parent bears the burden of persuasion. While the District must present evidence that the District has provided a FAPE to the Student, the ultimate burden of persuasion rests with the Parent to prove that the District's placement recommendation is not appropriate.<sup>172</sup> The District met the requirements that the District developed an IEP that provides the Student with a

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<sup>165</sup> See Findings of Fact 35 & 36 and the testimony of the school psychologist, social worker and school Principal.

<sup>166</sup> See *In re: Student with a Disability*, 114 LRP 44706, p. 23 (ISBE Case No. 2014-0189).

<sup>167</sup> See testimony of the tutor, the school Principal and the special education coordinator.

<sup>168</sup> See *Board of Education of Hendrick Hudson School District v. Rowley*, 458 U.S. 176 (1982).

<sup>169</sup> See *Andrew F. v. Douglas County School District RE-1*, 580 U.S. (2017).

<sup>170</sup> See Findings of Fact 24, 25, 27, 28,31, 33, 34, 35, & 36.

<sup>171</sup> See Findings of Fact 23, 24, 25, 27, 28, 29, 31, & 33.

<sup>172</sup> See *Schaffer v. Weast* 546 U.S. 49 (2005).

FAPE,<sup>173</sup> and the IHO concludes that the Parent failed to meet the Parent's burden of persuasion.

### **ORDER**

Based upon the Findings of Fact and Conclusions of Law, the IHO rules for the District. The IHO denies the Parent's requested relief.

### **NOTICE OF RIGHT TO REQUEST CLARIFICATION**

Pursuant to 105 ILCS 5/14-8.021(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. Therefore, any request for clarification must be submitted by 5pm on August 16, 2024. The request for clarification must specify the portions of the decision for which clarification is sought. A copy of the request must be emailed to all other parties and the Illinois State Board of Education at [aeulass@isbe.net](mailto:aeulass@isbe.net). 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 emailed to the party.

### **IT IS SO ORDERED:**

**Dated: August 11, 2024**

*/s/ D. Michael Risen*  
Impartial Hearing Officer

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<sup>173</sup> See Findings of Fact 23, 24, 25, 27, 28, 29, 31, & 33.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the Final Determination and Order was sent via electronic mail as an attached PDF file, electronic mail only, and directed to:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

And

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

And

Mr. Andrew Eulass, Esq., Due Process Coordinator  
@: [aeulass@isbe.net](mailto:aeulass@isbe.net)

On August 11, 2024

/s/ D. Michael Risen

D. MICHAEL RISEN, PH.D.  
IMPARTIAL HEARING OFFICER

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**APPENDIX A – PERSONALLY IDENTIFIABLE INFORMATION**

██████████ v. ██████ CHSD ██████

Case No. 2024-DP-0127

Students Name	██████████
Date of Birth	██████████
Attending School	Home Schooled
Recommended School	Therapeutic Day School
Parent's Name	██████████
Independent Evaluator #1	██████████████████
Independent Evaluator #2	██████████
Dean of Students	██████████
Principal	██████████
Special Education Coordinator	██████████████
Program Coordinator Public Day School	██████████
School Social Worker	██████████
School Psychologist	██████████