

ILLINOIS STATE BOARD OF EDUCATION
SPECIAL EDUCATION DUE PROCESS HEARING

IN THE MATTER OF

■

v.

■■■■■ CUSD # ■■■■■

) ISBE CASE NO. 2024-DP-0237
)
) **D. Michael Risen, PhD**
) Impartial Due Process
) Hearing Officer

Introduction

1. The DPCN came before the IHO on or about June 10, 2024.¹
2. On June 14, 2024, the IHO provided the parties with an initial packet of information as required by the Appropriate Standard Practices.²
3. On June 14, 2024, the District filed the State resolution form indicating the parties waived resolution in favor of State sponsored mediation.³
4. On June 24, 2024, the IHO provided the parties with a summary/order of the recently completed Status Conference.⁴
5. On July 15, 2024, the Parent provided the IHO and the District with a motion to extend the 45-day deadline for a final determination and order.⁵
6. On July 15, 2024, the IHO issued the order of continuance.⁶
7. On August 09, 2024, the parties timely filed the required PHC disclosure documents.⁷
8. On August 12, 2024, the IHO conducted the PHC and provided the parties with the PHC Summary/Order.⁸
9. On December 12, 2024, the Parent filed a motion to amend the DPCN.⁹

¹ Hearing officer exhibits are identified as “IHO” followed by the exhibit/page number; the parties submitted 3 joint exhibit books and one separate book per party. Appendix A includes all personally identifiable information.

² See IHO Exhibit (2) p. (16-38).

³ See HO Exhibit (3) p. (39-40).

⁴ See IHO Exhibit (11) pp. (57-58).

⁵ See IHO Exhibit (23) p. (81-82).

⁶ See IHO Exhibit (24) p. (83-85).

⁷ See IHO Exhibit (34-35) pp.(106-129).

⁸ See IHO Exhibit (38) pp. (139-143).

⁹ See IHO Exhibit (51) pp. (166-186).

10. On December 13, 2024, the IHO issued the order denying the Parent’s motion to amend the DPCN due to allowing the amendment causing an undue delay in the proceedings.¹⁰
11. On December 30, 2024, the IHO conducted a status call and confirmed the schedule of witnesses could include start and stop times of 8:30 am to 5:30pm for each date.¹¹
12. On January 1, 2025, the IHO provided the parties with the IHO’s ruling on the parties’ various objections to submitted witnesses and documents.¹²
13. On January 15, 2025, the Parent submitted the required written copy of the Parent’s closing argument presented on the 5th day of hearing. The IHO removed the submission from the record for failure to comply with the IHO’s order for submission.¹³ The IHO granted the Parent an additional half-day to resubmit and the Parent timely resubmitted in the correct format.¹⁴
14. On January 16, 2025, the IHO, based upon the parties’ feedback, confirmed with the parties the exhibits the IHO intended to exclude from the final record.¹⁵

Jurisdiction

15. The IHO conducted the hearing and rendered a decision in the DPCN pursuant to the Individuals with Disabilities Education Act (IDEA)¹⁶ 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

16. At the time of the filing of this DPCN, the complaint involved a 15-year-old male Student whose Parent unilaterally enrolled the Student in a therapeutic residential program and timely notified the District of the unilateral placement and sought

¹⁰ See IHO Exhibit (53) pp. (188-196).

¹¹ See IHO Exhibit (64) pp. (214-217).

¹² See IHO Exhibit (74) pp. (255-259).

¹³ See IHO Exhibit (82) pp. (294-295)

¹⁴ See IHO Exhibit (86) pp. (296-338).

¹⁵ See IHO Exhibits (88-89) pp.(339- 341).

¹⁶ 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.’”).

funding for the unilateral placement at public expense.¹⁷ Prior to the Parent's unilateral placement, the Student spent the previous seven years at [REDACTED] a private therapeutic day school (TDS). At the time of the filing of the DPCN, the District identified the Student as a student with IDEA eligibility under the categories of specific learning disability (SLD), Other Health Impairment (OHI), and Dyslexia and the District opposed the residential placement and maintained the Student's Least Restrictive Environment (LRE) was a therapeutic day school.¹⁸

Issues and Proposed Relief

17. During the pre-hearing conference, the parties certified three issues: Did the District deny the Student a FAPE (Free Appropriate Public Education) by:
- a. Failing to identify the Student as a student with autism, despite the many indicators, such as the Student's social pragmatic language deficits, displayed by the Student since the beginning of the 2022-23 school year.
 - b. Failing to provide the student for the past two school years with appropriate programs and services in light of the Student's circumstances including appropriate IEP goals, related services, a Functional Behavior Assessment (FBA), and Behavior Intervention Plan (BIP);
 - c. Failing to properly consider the several recommendations from various clinicians from [REDACTED] when the IEP team made decisions with respect to the provision of a FAPE to the Student;
 - d. Failing to follow the IDEA procedures by failing to provide the Parent with meaningful participation in the IEP process by refusing to schedule IEP meetings when asked by the Parent to enable the Parent the opportunity to share the concerns of the Parent for enhancing the education of the Student;
 - e. Failing to identify [REDACTED] residential facility as the LRE for the Student.¹⁹
18. Should the preponderance of the evidence support the Parent, the Parent seeks the following relief:
- a. Conduct an IEP team meeting that includes the Student's private clinicians (whose time is paid by the District), [REDACTED] Staff, and the Parent and develop an IEP that provides the Student with appropriate goals, short term objectives, supplementary aids, related services and placement during the 2024-25 school year at the [REDACTED] residential facility at public expense (includes all statutorily allowed expenses related to the placement.) (Parent must provide evidence of expenses incurred).

¹⁷ See Parent complaint at IHO Exhibit (1) (pp.1-15).

¹⁸ See IHO Exhibit (5) p. (44).

¹⁹ See IHO Exhibit (53) pp. (188-196). The IHO notes that the IHO struck Issue 5 after the District, during the course of these proceedings, determined that a therapeutic residential facility represented the Student's LRE.

- b. Reimburse the Parent for all statutorily allowed expenses incurred by the Parent for the Student's unilateral placement at [REDACTED] from April 1, 2024, through the date when the District assumes prospective responsibility for the placement at [REDACTED] (Parent must provide evidence of expenses incurred).
- c. Reimburse the Parent for all statutorily allowed costs incurred by the Parent while the Student attended the facility known as [REDACTED] (Parent must provide evidence of expenses incurred).
- d. Reimburse the Parent for the cost of the private psychological completed by Dr. [REDACTED] (Parent must provide evidence of the actual cost incurred).
- e. Provide the Student with compensatory education to accommodate the Student's denial of a FAPE for the 2022-23 and 2023-24 school years in the form of two prospective additional years of enrollment beyond the 2024-25 school year at [REDACTED] at public expense (or if unavailable or inappropriate a mutually agreed upon residential facility). If at any time in the future while the Student is enrolled at [REDACTED] the staff at [REDACTED] the Parent and the District agree that a less restrictive environment is more appropriate, the District will provide at public expense all related statutorily allowed costs for placement at a mutually agreed to therapeutic day school for the same time noted herein.
- f. Such other relief as determined by the impartial hearing officer.²⁰

Parent's Argument

19. The Parent argued that from the beginning of the Student's educational program, the Student demonstrated significant behavioral dysregulation. Eventually, the Parent argues, the District placed the Student at [REDACTED] a therapeutic day school (TDS). The Parent notes that the behavioral issues continued at the TDS and the Parent indicated that the agency frequently contacted the Parent seeking advice and/or requesting the Parent come to retrieve the Student from school. The Parent argued that the agency called the Parent so frequently, that the contact caused the Parent problems with her superiors at work.²¹ The Parent argues that the District abdicated the District's Child Find responsibilities, its responsibilities to monitor the Student's progress, its responsibilities to ensure the correct diagnosis of the Student, identify the correct determination of eligibility, and identify the appropriate program and services to address the Student's identified disability and accompanying needs.²² The Parent argued the District misidentified the Student since kindergarten and only recently correctly identified the Student as a student with Autism. The Parent further argued that the District confused the Student's ADHD with the Student's indicators of Autism. The

²⁰ *Id.*

²¹ *See* Parent's testimony.

²² *See* Parent's Closing Argument

District failed to evaluate the Student for years, other than to complete a file review. The Parent continued to raise concerns related to the Student's behaviors, social skills, executive functioning and attention. The Parent acknowledged that the District placed the Student in [REDACTED] but asserts that neither the TDS nor the District ever undertook a full-scale evaluation of the Student, other than the aforementioned file review.²³ The Parent asserted the evidence proves that the Student demonstrated signs of autism throughout the Student's educational career that the District either missed or failed to evaluate for the disability. The Parent asserts the District and the TDS missed the Student's indicators of autism, including cognitive rigidity, social skills deficits, trouble accepting "No," sensory issues, and pragmatic language issues.²⁴

20. The Parent argues that while the District noted that the TDS indicated the Student was making reasonable progress towards the goals in the Student's IEP, however, the TDS failed to make determinations of the Student's progress on measurements that included comparisons to Present Levels of Performance and Functional baseline data, variables that identified the sub-skills needed to identify his performance, and failed to update evaluations. Even though the TDS reported the Student seemed to make progress, the TDS also reported to the Parent in 2022 that the Student struggled to let go of things, can be obsessive when it comes to relationships, the Student tells peers he wants to die, he is attention seeking, raises his voice, struggling and has overwhelming fear that others will abandon him that results in anxiety and fear. Yet, neither the District nor the TDS documented these in the Student's IEP.
21. The Parent also argued that the TDS indicated that the TDS kept behavior data on the Student, the only evidence of such data was one chart covering five days out of the Student's 7 years at the facility. Further, while the District argued that the District had no data indicating these behavior concerns, the Parent points out that data from the 2023 IEP team meeting reflects the Student demonstrated behaviors that include: raised voice, tearful, curled up in a ball, agitated, responses have become more uncontrolled, trembling hands, banging his head against objects, responses are more unpredictable, calm to highly agitated at a fast pace. The

²³ *Id.*

²⁴ *Id.*

- Parent asserts these behaviors represent a child who was in an acute mental health crisis. And yet, the Parent asserts, the District did nothing, even though the Parent reported similar behaviors at home and the Parent eventually determined the need to hospitalize the Student. The Parent asserts that while the District argued a failure of data collection and sharing from the TDS prevented the District from knowledge of the Student's situation, but then the District failed to invite the staff working with the Student at the TDS to the 2024 IEP team meeting where the TDS staff could share what they did know and observed with the Student.
22. The Parent also argued that the District has ultimate responsibility to gather the appropriate information that the District requires to ensure the Student's needs are met when developing the Student's IEP and determining placement. Rating scales completed by the TDS when the Student attended 7th and 8th grade reflected high levels of behavior problems, high levels of relationship problems, high levels of ADHD, distractibility and high levels of ratings of autism on the autism rating scale. If the District had evaluated formally in the Student's prior years, there existed plenty of information that the Student displayed signs of autism. Evidence submitted, the Parent argued, supported the Student could benefit from ABA therapy, pragmatic intervention therapies, and other approaches appropriate for students with autism. The Parent also argued the evidence supported that multiple expert witnesses and some district staff acknowledged that the sooner the Student received these interventions the better. The Parent indicates that the evidence makes it certain that the Student did not receive the services required to address the student's pragmatic language deficits which caused his frustrations and increased acting out behaviors.
23. The Parent argues that the error in the District's position that the Student's behaviors were primarily a home problem, as the evidence supports that a significant number of the behaviors in 2022 and 2023 happened while the Student attended the TDS.
24. Legally, the Parent argues in the case *North v. DC* from 1979,²⁵ that the court found that the social emotional and medical problems are so intertwined that it is near impossible for the court to perform the Solomon like task of separating them.

²⁵See *North v. Dist. of Columbia Board of Education*, 551 IDELR 157, 551 LRP 6688 (DC. Wash. DC. April 9, 1979).

The Parent also noted that the evidence indicates that the brain performs differently due to ADHD and autism and therefore, strategies to ameliorate the disability must address the appropriate eligibility diagnosis. Thus, since the District failed to timely identify the Student's primary disability, the District failed to program appropriately to meet the symptoms of the Student's primary disability of autism.

25. The Parent also argued that the evidence indicates that at no time when the Student had so many difficulties during the 7th and 8th grade did the District reach out to evaluate the Student to determine the antecedents of the behavior and provide services to address those behaviors. The Parent wondered if the District had reached out and completed a full case study evaluation during the 7th grade would the Student demonstrate the need for the unilateral placement at a therapeutic residential facility in the 9th grade. Further, the Parent asserts, the District caused actual detriment due to this failure to identify autism, identify and address the Student's pragmatic language issues, only provide speech and language consult services for 15 minutes per quarter, and failure to complete an FBA and BIP. The Parent also asserted that the District committed two violations by predetermining the inappropriateness, without evaluation, of the Student's unilateral residential placement and the District's failure to consider the information from the outside evaluators who all recommended the Student required residential placement to appropriately address the Student's needs. The Parent also notes that the most recent IEP for the Student ended in agreement that the Student's primary disability is autism and has needs for pragmatic language services and the appropriate placement is a therapeutic residential facility. The Parent indicates that the evidence supports that these needs have always existed for the Student and this agreement should have occurred much sooner if the District had either kept and monitored appropriate data or completed a more timely and complete evaluation of the Student. In fact, the Parent asserts that case law supports that inadequate or lack of an appropriate evaluation is indeed a denial of FAPE.
26. The Parent notes that *Andrew F.* requires that districts must have specific measurable information to support and monitor the Student's goals and objectives and that the evidence indicates the TDS failed to provide this in the Student's IEP

and the District failed to monitor the Student's progress and therefore become aware of this deficiency. As a result, the Parent argues that the District's ongoing failure to provide the Student with a FAPE should result in an award of compensatory education for the Student.

DISTRICT'S ARGUMENT

27. First, the District notes that the ultimate burden of persuasion is for the Parent and the Parent failed to meet that burden on every issue.²⁶ The District argues that the District provided the Student with a FAPE regardless of the Student's eligibility category and that there exists well settled case law in support of this. The District argues that the 7th Circuit ruled that an IEP must address the Student's educational needs and not necessarily the Student's eligibility identification.²⁷ The District asserts that the Student's educational programming while at the TDS would not change due to an autism diagnosis instead of an ADHD diagnosis. The District noted that the TDS asserts that student programming is based upon student needs and not a student's eligibility category. The District asserts that the Student's eligibility label is a red herring. The District argued that the District provided the Student with appropriate goals and services during the Statute of Limitations (SOL) period. The District argued the evidence supports the Student made significant strides during the Student's time at the TDS and that the Student's IEP provided the Student with appropriate goals and behavior interventions. The District also argued that the Parent thwarted the District's efforts to complete an FBA for the Student in the 9th grade when the Parent removed the Student from the TDS.
28. The District argued that the TDS demonstrated the Student achieved all the goals in the Student's IEP and received research-based instruction through the Wilson reading program. Further, the District argued that the Student received Occupational Therapy (OT) services to address the Student's executive functioning deficits, sensory strategies, fine and gross motor functions, self-regulation and zones of regulation. The District argued that the evidence supports the Student made appropriate progress while at the TDS and that the District not only considered the Student's IEE but

²⁶ See IHO Exhibit (92) at p. 216.

²⁷ See *Heather S. v. State of Wisconsin*, 125 F.3d 1045 (7th Cir. 1997), *Fort Osage R-I Sch. Dist. v. Sims ex rel. B.S.*, 641 F.3d 996 (8th Cir. 2011), and *Corey H. v. Bd. of Educ. of City of Chicago*, 995 F. Supp. 900 (N.D. Ill. 1998).

adopted the results and included them in the Student's IEP, including the finding that the Student identified as a student with autism. Further, the District asserted that the evidence demonstrates that the IEP team reviewed all of the Student's IEEs and outside reports from outside providers.

29. The District argued that the District provided the Parent with meaningful participation in the IEP process, including providing the Student and Parent with IEP team meetings six different times over the course of the 2023-24 school year. The District wanted to complete a comprehensive evaluation of the Student but the Parent had placed the Student outside of the State and therefore, the Parent did not make the Student available for the evaluation. The District argued that the Parent unilaterally placed the Student to address the Student's medical needs related to the Student's deteriorating mental health and that the subsequent deterioration of the Student's behaviors while in the unilateral placements caused the eventual justification of the residential placement ultimately approved by the District's IEP team. The District noted that the Parent's medical insurance paid for much of the cost of the Student's unilateral 90-day residential treatment. The District asserted the Parent's independent evaluators confirmed the Student's need for medical services while in the Student's unilateral residential placements.
30. Further, the District asserted the 7th Circuit requires that the residential services must be primarily oriented to enabling the Student to earn an education.²⁸ Further, the District asserts that the Student only received one hour per day of academic instruction while in the short-term 90-day residential facility. The District asserts that the unilateral placement at [REDACTED] was not an appropriate placement for the Student. While at [REDACTED] the District asserts the evidence indicates the Student did not receive ABA therapy, the Student's program for instruction was based on very low expectations of the Student, and competencies were awarded upon the Student earning a score of 60%. The [REDACTED] program did not utilize an IEP for the Student, did not have a board-certified behavior analyst (BCBA), nor did the program provide the Student with an FBA or BIP. Further, the District asserted that while [REDACTED] residential facility earned ISBE certification, several staff working with the Student

²⁸ See . *Dale M. ex rel. Alice M. v. Bd. of Educ. of Bradley-Bourbonnais High Sch. Dist. No. 307*, 534 U.S. 1020, 122 S. Ct. 546, 151 L. Ed. 2d 423 (2001). See also *Richardson Independent School District v. Michael Z.*, 580 F.3d 286 (5th Cir. 2009).

were no licensed professionals. As a result, the District asserts, the Student regressed while at [REDACTED] and such regression, by law, invalidates the Parent’s claim for reimbursement for a unilateral placement. The District argues the evidence demonstrates the Student’s regression included: insufficient progress towards reducing vocal outbursts and maintaining appropriate physical boundaries from others, and his satisfactory performance in the classroom decreased while at the [REDACTED]

31. The District argues the equities favor the District for the following reasons: the Parent failed to provide notice of the unilateral placement at the 90-day short-term residential facility, failed to seek payment from the District for the costs of the placement, and failed to provide the District with the ISBE required home/hospital certification. Further, the District noted that case law indicates that “although mental health issues can interfere with academic progress, IDEA does not make public schools responsible for residential placements that primarily address mental health issues.”²⁹ The family did not make the Student available for testing until six months after the District sought the testing and the family resisted the District’s efforts to complete all of the testing in person and presented the Student in an exhausted condition that may have influenced the independent evaluation results.

STIPULATIONS OF FACT

32. On January 10, 2024, the Out of District Coordinator for [REDACTED] School District [REDACTED], emailed releases to the Parents to obtain permission to provide The Student’s records to the following nonpublic day schools: [REDACTED]

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

33. On January 12, 2024, The Student’s mother provided consent to send The Student’s records to [REDACTED].

34. On February 13, 2024, The Student’s parents and their advocate, [REDACTED], toured [REDACTED].

²⁹ See District written closing argument at p. 9 and *A.h. By P.h. v. Arlington Sch. Bd.*, 2021 WL 1269896 (E.D. Va. 2021).

35. On February 14, 2024, The Student's mother signed releases for the other nonpublic day schools, and for [REDACTED].
36. On February 19, 2024, the District communicated to the parents' advocate that the Parents could tour at [REDACTED] but noted that [REDACTED] would not provide 240 minutes a month of social work services, as required by The Student's IEP, and that The Student would have access to a Chromebook during instruction. The parents did not tour [REDACTED], although the parties eventually learned that [REDACTED] no longer had an opening.
37. On March 12, 2024, the Student toured [REDACTED] with his Parents.
38. On March 14, 2024, [REDACTED] declined The Student's admission.
39. [REDACTED] and [REDACTED] reported that they did not have an appropriate placement for The Student.
40. [REDACTED] reported that it was not currently accepting students with an IDEA eligibility of Autism.
41. [REDACTED] reported having no openings.
42. [REDACTED] reported that it did not have a current opening.
43. [REDACTED] offered a tour to The Student's parents, which was previously communicated to the Student's The Student's parents did not tour [REDACTED].
44. [REDACTED] offered The Student's parents a tour, which was previously communicated to the Student's parents. The Student's parents did not tour [REDACTED].
45. During all the foregoing, The Student's parents maintained that The Student required a therapeutic residential placement.
46. On March 18, 2024, Parents provided Notice of Unilateral Placement at the [REDACTED] School.
47. The District had not heard back from SEAL-Lombard at the time of parents' unilateral placement.³⁰

IHO Findings of Fact

After considering all the evidence as well as the arguments of counsel, this

³⁰ See IHO Exhibit (67) pp. (J235-242).

Hearing Officer's Findings of Fact are as follows:

48. On April 8, 2015, and January 12, 2017, the District completed separate IEEs at public expense for the Student. The evaluations both indicated the Student exhibited behavior consistent with the inability to shift sets, displays of anger and lashing out, continued downward slide in academics, cognitive rigidity and a pragmatic language deficit.³¹
49. On March 16, 2021, the District conducted an IEP team meeting. Summary notes reflect the Student presented with behaviors that indicated the Student struggled with impulse control, remaining on task, required frequent redirection and prompting, taking responsibility for the Student's actions, demonstrated work avoidance, and had problems with organization. The Student also struggled with managing his emotions, would yell and cry and when staff attempted to correct the behaviors, the behaviors escalated and the District agreed the behaviors impeded the Student's learning.³²
50. On March 7, 2022, the District changed the Student's speech and language services to consult only.³³
51. On September 29, 2022, the TDS emailed the Parent with a list of strengths and challenges. Of note, examples of the challenges provided included: obsessive relative to relationships and not letting things go, repeatedly asking peers to respond to texts and indicating he wants to die to secure peer attention, lay prone on the ground to secure peer attention, demonstrated avoidance behaviors, becomes argumentative when the Student failed to secure the Student's preferred outcomes, feeling lonely and struggled to secure meaningful relationships resulting in demonstrating fear and compulsive behaviors.³⁴
52. On February 23, 2023, the District completed the Student's annual review and reported that [the Student] "has difficulty following staff directions and accepting 'no' for an answer." The Strengths and Needs section continued to state that the Student expressed himself in a negative, argumentative manner, has a low

³¹ See Joint Exhibits (8-9) pp.(J98-118). (The IHO notes that the Parent's Independent Evaluator testified that these characteristics are very symptomatic of autism spectrum disorder and that these results indicate the Student has always been a student with autism since birth).

³² See Parent Exhibit (13) at p. 191 and testimony of Out of District Coordinator.

³³ See Joint Exhibit (23) p. (J371).

³⁴ See Joint Exhibit (39) p. (J474).

- tolerance of others, has difficulty in peer social interactions, disrupts and interjects conversations the Student is not a part of, and the Student benefits from a clear reward system, consistency, and breaks when needed.³⁵ IReady achievement scores indicated the Student performing 1-2 years below grade level in reading, and 2-5 year below grade level in math.³⁶ The Student demonstrated difficulty utilizing his accommodation known as Speech to Text.³⁷ The TDS regularly contacted the Parent at work seeking advice on how to deal with the student and, at times, sought for the Parent to retrieve the Student from the TDS and take the Student home.³⁸
53. On March 27, 2023, the District conducted the Student's Annual Review and the Speech and Language therapist recommended speech consult 15 minutes per quarter.³⁹ The District concluded the Student did not require support for pragmatic language.⁴⁰
54. On September 26, 2023, the administration at [REDACTED] provided the Student with a new behavior plan and schedule. Among items of note, the plan for the Student's behavior regulation included the use of gum/mints, weighted lap pad, wobble cushion, and fidget (the fidget required prior permission to use).⁴¹
55. On October 4, 2023, the Parent first became aware that the Student's school behaviors had significantly increased.⁴²
56. On October 4, 2023, the TDS began charting the Student's behaviors.⁴³
57. On October 12, 2023, the Parent, via email, notified the District of the Parent's unilateral placement of the Student at a short-term residential behavior program and requested an emergency IEP team meeting.⁴⁴
58. On October 13, 2023, the District conducted the emergency IEP team meeting

³⁵ See Joint Exhibit (22) at p. (J327). (The IHO notes that the description included in this section of the Exhibit illustrates identical issues from the previous annual review dated March 7, 2022).

³⁶ See Joint Exhibit (22) at p. (J328).

³⁷ See Joint Exhibit (22) at p. J325. (The IHO notes the document reflects the Student utilized the accommodation, however, the testimony of the special education teacher for 7th and 8th grades indicated the Student struggled to experience benefit from the accommodation).

³⁸ See uncontested testimony of the Parent. The IHO also notes that the Parent testified that the calls became so frequent that the Parent was reprimanded at her work for the frequent calls.

³⁹ See Joint Exhibit (23) at p. (371).

⁴⁰ See testimony of [REDACTED] Speech Pathologist.

⁴¹ See Joint Exhibit (48) at pp. (J484-485).

⁴² See Joint Exhibit (38) at p. (J472) and testimony of the Parent.

⁴³ *Id.* At pp. 466-473 and testimony of the Parent and the 9th grade TDS teacher.

⁴⁴ See Joint Exhibit (52) at pp.(J491-492).

requested by the Parent. The student recently transitioned from the [REDACTED] elementary program to the high school program. The Conference Notes indicated that the Student's behaviors increased in both frequency and intensity at both home and school.⁴⁵ At this point, the TDS began charting the Student's behaviors.⁴⁶ The Parent did not notify the District of any expectation for reimbursement for costs of the 90-day short term residential placement. The parent received insurance reimbursement for a significant portion of the residential placement.⁴⁷ The Parent failed to provide the District with the required medical certificate necessary for public funding of the educational component.⁴⁸

59. On October 30, 2023, while the Student attended the short-term residential behavior program known as [REDACTED] the Student participated in an online academic instructional program from [REDACTED] Academy (MPA). MPA informed the District and the Student's then TDS that MPA did not require any instructional programs or assignments from the TDS.⁴⁹ MPA provided about one hour per day of academic instruction due to the Student's behaviors. Typically, the Student participated for about 15 minutes then would need a 20 minute break before returning to the academic instruction.⁵⁰

60. On December 26, 2023, the Student completed a full neuropsychological evaluation that identified the Student as a student with Autism Level 2 for the first time.⁵¹ On the WISC V, the Student's scores reflected all below average in the areas of Verbal Comprehension, Visual Spatial, Working Memory, Processing Speed and Full-Scale IQ with one score in the average range, Fluid Reasoning.⁵² The Student's scores on the KTEA-3 reflected all below average to very low in all categories including academic skills, reading and math.⁵³

61. On December 29, 2023, the Student's treating psychiatrist recommended

⁴⁵ See Joint Exhibit (21) at p. (J320).

⁴⁶ See Joint Exhibit (38) at pp. (J466-473). (The IHO notes that the Parent's Independent Evaluator testified that charts such as those depicted in the exhibit are typically the beginning stages of an FBA and that just starting these charts in late October of 2023 seemed to the Evaluator to be a "lost opportunity" to provide pertinent data for working effectively with the Student.)

⁴⁷ See Testimony of the District Special Education Director and the Parent.

⁴⁸ *Id.*

⁴⁹ See Joint Exhibit (54) at p. (J495) and testimony of District Special Education Coordinator.

⁵⁰ See Testimony of [REDACTED] Executive Director.

⁵¹ See Joint Exhibit (13) at p. (J153).

⁵² *Id.* at p. (J151).

⁵³ *Id.* at p. (J153).

- placement of the Student as a medically necessary placement in a residential therapeutic setting⁵⁴
62. On January 12, 2024, the District conducted an IEP team meeting to discuss the next steps.⁵⁵ Other than the Parent, the members of the IEP team did not know the Student. Over the objections of the Parents, the IEP team determined the data from ██████████ did not justify a residential placement for the Student. The District informed the Parent to review the Parent's procedural safeguards to determine the Parent's next steps. The Student performed well at the 90-day residential facility and expressed a desire to remain at ██████████ residential placement. The Parent agreed to sign permission for the District to send placement information to the Sonia Shankman TDS.⁵⁶ The Student continued to demonstrate behaviors that required significant amounts of redirection.⁵⁷
63. On January 24, 2024, the Parent's advocate notified the District of the Student's discharge from the residential therapeutic facility ██████████ as of January 31, 2024.⁵⁸
64. On January 31, 2024, the District's representative informed the District that ██████████ intended to keep the Student for a longer period.⁵⁹ At the time, and over the course of one week, the Student continued to display significant maladjusted behaviors. Among others, the behaviors displayed included: confrontational with peers and staff, screaming and flailing his arms, swearing and calling others derogatory names, threatening to kill everyone, physically assaulting staff by jumping on them and grabbing them, elbowed staff, knocked over furniture.⁶⁰
65. On February 1, 2024, the District learned ██████████ planned to discharge the Student on February 7, 2024.⁶¹ The District also conducted an IEP team meeting and changed the Student's primary eligibility to Autism Level 2.⁶² Further, the District adopted the independent educational evaluation (IEE) that reflected a

⁵⁴ See Joint Exhibit (12) at p. (J147) and testimony of the Student's Treating Psychiatrist.

⁵⁵ See Joint Exhibit (20) at p. (J314).

⁵⁶ *Id.* At p. (J315).

⁵⁷ See testimony of Out of District Coordinator. The IHO notes that the Out of District Coordinator also agreed that the Student consistently presented the behaviors since at least the 6th grade (See also Parent Exhibit (13) at p. (191)).

⁵⁸ See Joint Exhibit (160) at p. (J1264).

⁵⁹ See Joint Exhibit (162) at p. (J1269).

⁶⁰ See Joint Exhibit (14) at pp. (J157-158).

⁶¹ See Joint Exhibit (163) at p. (J1272).

⁶² See Joint Exhibit (18) at p. (J267)

diagnosis of Autism Spectrum Disorder Level 2.⁶³ The District also agreed to conduct an FBA and BIP for the Student.⁶⁴ The IEP team recommended placement in an alternative TDS.⁶⁵ The IEP team also reviewed the section known as Autism Considerations.⁶⁶

66. On February 14, 2024, the Parent informed the District the Student's anticipated return date was February 15, 2025.⁶⁷ The Parent also informed the District that the recommended TDS told the Parent that "students that need physical restraint aren't a 'good fit' there."⁶⁸ The Parent also alerted the District related to the Parent's efforts to work with the ISBE to secure a grant for the Student's residential costs. The District did not reach out to the Parent to provide any assistance and the Parent failed to ever make the connections required to secure the grant.⁶⁹ The Parent submitted signed releases for seven additional referrals to TDS.⁷⁰

67. On February 23, 2024, the District completed an Annual Review and the IEP team determined that the Student did not demonstrate the need for an FBA and BIP.⁷¹ Achievement data reflected the student performing below grade level in reading comprehension and math.⁷² The Parent shared significant concern regarding the Student's lack of progress. The District failed to seek any information from the TDS related to these concerns and to the extent that they impacted the Student. The concerns included the student could be either "on or off," the Student performed below grade level, believed the Student demonstrated a low maturity level, has difficulty self-regulating, and can "snap" and has a difficult time returning to baseline.⁷³ The IEP team recognized the Student's behavior impeded the Student's learning.⁷⁴ The IEP reflected goals in reading,

⁶³ *Id.* and the testimony of the District's Special Education Coordinator.

⁶⁴ *See* Joint Exhibit (19) at p. (J280) and District's Special Education Coordinator testimony.

⁶⁵ *Id.* at p. (J305).

⁶⁶ *See* testimony of ██████████ Special Education Teacher for 7th and 8th grade whose testimony confirmed that the Autism Considerations reviewed existed for the Student during his 7th and 8th grade years at ██████████

⁶⁷ *See* Stipulations of Fact at paragraph 32 and testimony of Parent and Special Education Director

⁶⁸ *Id.*

⁶⁹ *Id.* And the testimony of the Parent and the Special Education Director..

⁷⁰ *See* Joint Exhibit (165) at pp. (J1275-1284).

⁷¹ *See* Joint Exhibit (22) at p. (J332) and District's Special Education Coordinator testimony.

⁷² *Id.* at p. (J328).

⁷³ *Id.* at p. 331 and testimony of Out of District Coordinator.

⁷⁴ *Id.* at p. 332 and testimony of Out of District Coordinator.

- spelling, writing, math, self-control, and self-regulation. The goals failed to include baseline data for the Present Levels of Academic Achievement and Functional Performance, thereby making the goals immeasurable.⁷⁵
68. On March 7, 2024, the District conducted an IEP team meeting. The IEP reflected goals in reading, spelling, writing, math, self-control, and self-regulation. The goals failed to include baseline data for the Present Levels of Academic Achievement and Functional Performance, thereby making the goals immeasurable.⁷⁶ The District recommended placement at a different TDS.⁷⁷
69. On March 12, 2024, the Student and the family toured the Sonia Shankman alternative TDS and this represented the first notice the District received that the Student returned from the medical TDS.⁷⁸
70. On March 14, 2024, the TDS recommended by the IEP team at the January 12, 2024, IEP meeting refused acceptance of the Student due to the Student's level of maladjusted behaviors.⁷⁹
71. On March 18, 2024, the Parent formally notified the District of the Parent's intent to enroll the Student at the [REDACTED] Therapeutic Residential facility.⁸⁰
72. On March 25, 2024, the District conducted an IEP team meeting to review existing data, complete an IEP review, and consider the need for an FBA and BIP.⁸¹
73. On March 28, 2024, the Parent's representative suggested eight different alternatives for completing an in-person evaluation of the Student.⁸² The District asserted the District's right to conduct the testing via the location and evaluators of the District's choice.⁸³
74. On April 4, 2024, the District began charting the Student's behavior incidents while the Student attended the unilateral residential placement. Data revealed the Student's behaviors occurred 17% of the time while in the school setting and 82%

⁷⁵ See Joint Exhibit (22) at pp.(J342-348) also Joint Exhibit (23) at pp. (377-380) and testimony of Out of District Coordinator who also noted the team needed to discuss the lack of baseline data but did not.

⁷⁶ See Joint Exhibit (23) at pp.(J375-380) and testimony of Out of District Coordinator.

⁷⁷ *Id.* at p. (J393).

⁷⁸ See Stipulations of Fact at paragraph 37 and testimony of Special Education Coordinator.

⁷⁹ See District Exhibit (23) at p. (D94) and the testimony of the Special Education Director.

⁸⁰ See Joint Exhibit (170) at p. (J1291).

⁸¹ See Joint Exhibit (17) at p. (J251). (The IHO notes that testimony from the District's Special Education Coordinator confirmed that the only participants with direct knowledge of the Student were the Parents).

⁸² See Joint Exhibit (172) at pp. (J1294-1295).

⁸³ See Joint Exhibit (173) at p. (J1299) and the testimony of the Director of Special Education.

of the time while in the residential or dorm setting.⁸⁴ When the District eliminated weekend data, the behavior incidents in school occurred 30% of the time and 70% of the time in the dorm setting.⁸⁵

75. On August 30, 2024, the District completed an IEE for speech and language at public expense. “It is important to consider speech and language services as a related service. [The Student] shows relative weaknesses within receptive and expressive language that should be met through accommodations and requires direct intervention to support social language deficits.”⁸⁶ Further, the Student requires remediation in speech and language skills in social communication and explicit instruction in self-advocacy skills.⁸⁷
76. On October 27, 2024, the Student demonstrated significant progress at the therapeutic residential school. The specific areas of progress occurred during the Student’s dorm time at the facility. However, the Student continued to demonstrate serious maladjusted behaviors including swearing, yelling, badgering, threatening, physical aggression, and elopement among others.⁸⁸
77. On November 18, 2024, the Student completed a comprehensive evaluation administered by an independent evaluator selected and paid for by the District. The Student demonstrated high levels of maladjustment across the vast majority of the scales measured including: Externalizing Problems, Hyperactivity, Aggression, Conduct Problems, Internalizing Problems, Anxiety, depression, attention, learning, atypicality, among others.⁸⁹ Further, the Student presented as a student with autism.⁹⁰ This assessment and resulting finding of autism represents the first instance of the District utilizing a specific instrument that measures the presence of autism since at least 2017.⁹¹ Since the Student’s previous TDS did not provide or consider providing an FBA and BIP,⁹² the Student requires the completion of an FBA and BIP.⁹³

⁸⁴ See District Exhibit (9) at pp. (D42-D46) and testimony of the Director of Special Education.

⁸⁵ *Id.*

⁸⁶ See Joint Exhibit (6) at p. (J40) and testimony of independent speech and language pathologist.

⁸⁷ *Id.*

⁸⁸ See Joint Exhibit (75) at p. (J693).

⁸⁹ See Joint Exhibit (7) at pp. (J94-95) and testimony of District Independent Evaluator.

⁹⁰ *Id.* at p. (J80).

⁹¹ See District Independent Evaluator testimony.

⁹² See Joint Exhibit (22) at p. (J332) and testimony of Out of District Coordinator.

⁹³ *Id.* Joint Document (J7) at p. (J85) and testimony of the District Independent Evaluator.

78. On December 2, 2024, the Student’s therapeutic residential facility notified the Parent of the agency’s intent to dismiss the Student on December 20, 2024. The notice included the reasoning which stated in part: the Student “exhibited numerous unsafe behaviors including extreme periods of dysregulation and assaultive behaviors which have had a profound impact on staff, students, and the overall learning environment.”⁹⁴
79. On December 5, 2024, the District conducted an IEP team meeting and determined for the first time the Student required the completion of an FBA and BIP.⁹⁵ Further, the District determined the Student LRE as a therapeutic residential facility.⁹⁶
80. On December 27, 2024, the Parent had an IEE completed for the Student. The independent evaluator concluded “By the time that [the Student] entered kindergarten Autism Spectrum Disorder should have been considered based on his reported presentation.”⁹⁷ Further, the Student’s TDS during the Student’s 6th grade year reported observations consistent with students on the autism spectrum that the TDS and the District failed to properly consider and identify. The result, “interfered with early interventions and with programmatic and methodological techniques that if applied in 2016 and before 2023 may have mitigated some of the functional consequences of [the Student’s] underlying Autism Spectrum Disorder.”⁹⁸ Indeed, the nature and severity of the Student’s Autism Spectrum Disorder symptoms, including the prevalence of cognitive rigidity, were so severe that specific interventions were required and necessitated a residential setting earlier than the Fall of 2023.⁹⁹ Additionally, the Student deals with dyslexia. Therefore, treating facilities should avoid the use of reading as a form of instruction and self-teaching.¹⁰⁰

Conclusions of Law

81. The Petitioner Proved that the Respondent denied the Student a FAPE by

⁹⁴ See Joint Document (156) at p. (J1258) and testimony of the Executive Director.

⁹⁵ See Joint Document (16) at p. (J191).

⁹⁶ *Id.* at p. (J224) and testimony of Special Education Director.

⁹⁷ See Parent Exhibit (1) at p. (P000003) and testimony of the Parent’s Independent Evaluator.

⁹⁸ *Id.* at pp. (P4-5).

⁹⁹ *Id.* at p. (P6). (The IHO noted that another two independent evaluators [student’s treating psychiatrist and therapeutic hospital placement psychologist] and the Executive Director at [REDACTED] all recommended continued residential therapeutic placement). See also Joint Exhibit (J14) at p. (J159).

¹⁰⁰ *Id.* at p. (P 000019) and testimony of Parent’s Independent Evaluator.

failing to identify the Student with autism, despite the many indicators, such as the Student’s social pragmatic language deficits, displayed by the student since the beginning of the 2022-23 school year.

82. Every student with a disability eligible under the IDEA is entitled to a FAPE. The IDEA defines a FAPE as special education and related services that:
- a. Are provided at public expense, under public supervision and direction, and without charge;
 - b. Meet the standards of the state educational agency, including the requirements of this part;
 - c. Include an appropriate preschool, elementary school, or secondary school education in the state involved; and
 - d. Are provided in conformity with an individualized education program that meets the requirements of 34 CFR 300.320 through 34 CFR 300.324.¹⁰¹
83. An IEP must be reasonably calculated to enable a child to make progress “appropriate in light of the child's circumstances.” However, the question is whether the IEP is reasonable, not whether it is ideal.¹⁰²
84. To determine whether an IEP complies with the IDEA, the *Rowley*¹⁰³ standard requires a two-part inquiry that is, first, procedural, and second, substantive. At the first step, one must examine whether there were procedural violations of the IDEA, namely, “whether the state has complied with the procedures set forth in the IDEA.”¹⁰⁴ Courts and hearing officers next examine whether the IEP was substantively adequate, namely, whether it was “ ‘reasonably calculated to enable the child to receive educational benefit [s].’¹⁰⁵ Substantive inadequacy automatically entitles the parents to reimbursement. Procedural violations, however, only do so if they “impeded the child's right to a [FAPE],” “significantly impeded the parents' opportunity to participate in the decision-making process,” or “caused a deprivation of educational benefits.”¹⁰⁶ Finally, the IEP must provide

¹⁰¹ See 34 CFR 300.17. See also 34 CFR 104.33 (b); and 34 CFR 104.33 (c).

¹⁰² See *Endrew F. v. Douglas County Sch. Dist. RE-1*, 69 IDELR 174 (U.S. 2017).

¹⁰³ See *Board of Education of Hendrick Hudson School District v. Rowley, et al., Petitioners v. Amy Rowley, by her parents, Rowley et al. Respondent* No. 80-1002 U.S. Supreme Court (June, 1982).

¹⁰⁴ See *Cerra*, 427 F.3d at 192.

¹⁰⁵ *Id.* (quoting *Rowley*, 458 U.S. at 206–07, 102 (S.Ct. 3034).

¹⁰⁶ See 20 U.S.C. § 1415(f)(3)(E)(ii); A.C., 553 F.3d at 172.

- the Student with the appropriate programming and services to enable the child to receive educational benefit in light of the child's unique circumstances.¹⁰⁷
85. The IDEA defines autism as "a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age 3, that adversely affects a child's educational performance."¹⁰⁸ Other characteristics of autism include "engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences."¹⁰⁹
86. Under the IDEA, the school district is required to provide an education tailored to the student's unique needs. If the district incorrectly identifies a student's disability as ADHD instead of autism, or other disability category, it may result in the student not receiving the appropriate services and support they need. Misidentification can lead to a denial of FAPE because the educational program may not be reasonably calculated to enable the student to make educational progress.¹¹⁰ The evaluations completed by a school district must be sufficiently comprehensive to identify all the student's educational and related service's needs, even if the identification is not directly related to the student's disability category.¹¹¹ The District argued that the District provided the Student a FAPE regardless of the student's identified disability during the 7th-9th grade years and well settled case law supports the efficacy of this approach.¹¹² The District pointed to the 7th Circuit's ruling that a student's IEP must address the educational needs and not necessarily the student's eligibility identification.¹¹³ Grounded in this principle, the District argued that the Student's IEPs provided the Student

¹⁰⁷ See *Endrew F. v. Douglas County School District Re-1*, 580 U.S. Supreme Court (2017).

¹⁰⁸ See 34 CFR 300.8 (c)(1)(i).

¹⁰⁹ *Id.*

¹¹⁰ See *Florence County School District 4 v. Carter*, 510 U.S. 7 (1993) which held that a court may order reimbursement for parents who unilaterally withdraw their child from a public school that provides an inappropriate education under IDEA and put the child in a private school that provides an education that is otherwise proper under IDEA but does not meet all of § 1401(a)(18)'s requirements. Pp. 12-16.

(a) *In School Comm. of Burlington v. Department of Ed. of Mass.*, 471 U. S. 359, 369-370, the Court recognized the right of parents who disagree with a proposed IEP to unilaterally withdraw their child from public school and place the child in private school, and held that IDEA's grant of equitable authority empowers a court to order school authorities retroactively to reimburse the parents if the court ultimately determines that the private placement, rather than the proposed IEP, is proper under the Act.

¹¹¹ See *City of Chicago Sch. Dist. 2999 v. Ill. State Educ. Agency*. 111 LRP 51340 (Dec 30, 2010).

¹¹² See Paragraph 21.

¹¹³ *Id.*

with the programs, services, and goals during the relevant period.¹¹⁴ However, data from the Student's IEPs reflected that the Student consistently performed below grade level in reading and math and IEP team members could not measure the Student's goal performance. The nexus for this lack of measurability is directly connected to the lack of baseline data in the Student's Present Levels of Academic Achievement and Functional Performance.¹¹⁵

87. Additionally, as early as 2015, the Student demonstrated deficits in social pragmatic language.¹¹⁶ Yet, the District essentially dismissed the Student from any speech and language services.¹¹⁷ The District asserted that the TDS addressed this deficit throughout the program provided by the TDS.¹¹⁸ One clear example of the District's failures related to the inappropriate eligibility identification is the lack of direct programming for pragmatic language. Instead of providing the Student with speech and language services to address the Student's social pragmatic language deficits, the District discontinued the service and provided consultation services with the Student's teacher.¹¹⁹ Social pragmatic language/communication refers to a child's ability to utilize language in social contexts or for social purposes. Other descriptors include language skill set called: pragmatics, social interaction, or social cognition. Pragmatic abilities include but are not limited to: perspective taking, understanding and using rules associated with verbal and nonverbal language (tone, gestures, body spacing, nonliteral language, etc.), the use of structural aspects of language (vocabulary, syntax, etc.), conversational exchanges, etc. Deficits across this language skill set can vary considerably from child to child and subsequently require assessment and consultation from a speech-language pathologist to appropriately treat the specific areas (within social/pragmatic language) of need.¹²⁰

88. The District failed to complete a comprehensive evaluation of the Student despite

¹¹⁴ *Id.*

¹¹⁵ See Findings of Fact (FOF) 67 and 68.

¹¹⁶ See (FOF) 48,

¹¹⁷ See FOF 50.

¹¹⁸ See Paragraph 27. (Of note, the Student's Independent Evaluator commented that had the District identified the Student's autism disorder prior to 2016 and then implemented interventions and methodological techniques such steps may have mitigated the Student's behaviors that necessitated the Parent's unilateral placement).

¹¹⁹ See FOF 50 when the District discontinued any speech and language services for the Student.

¹²⁰ See *Way With Words*, at: <https://www.a-waywithwords.com/services>.

the significant increase in maladjusted behaviors exhibited by the Student during the Student's 7th thru 9th grade years at the TDS.¹²¹ Since 2017, when [REDACTED] [REDACTED] completed an IEE for the Student, the first full scale evaluation completed by the District did not occur until November 18, 2024.¹²² Case law supports the liability school districts have when evaluations are either inadequate or untimely.¹²³ Additionally, "Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA."¹²⁴ The failure to provide an appropriate IEP included a failure to provide appropriate goals that were measurable and service minutes required to address all of the Student's identified disabilities, Thus, the IHO concludes that the District failed to effectively monitor the Student's lack of progress with previously identified behaviors during the Student's placement at the TDS, failed to recognize the many indicators of autism the Student displayed, and failed to appropriately provide the Student with an IEP reasonably calculated to provide the Student with educational benefit in light of the Student's unique circumstances.

89. The Petitioner Proved that the Respondent denied the Student a FAPE by failing to provide the student for the past two school years with appropriate programs and services in light of the Student's circumstances including appropriate IEP goals, related services, and FBA and BIP.

90. The IDEA requires each IEP to include a statement of measurable annual goals designed to meet the child's disability-related needs. The purpose of this requirement is to enable the IEP team to monitor the student's progress.¹²⁵ The description of the annual goals should be specific enough to allow the district to determine whether the student made progress and also make clear which specific skills will be required to achieve those goals.¹²⁶ The IEP team

¹²¹ See FOF 48, 49, 51, 52, and 54.

¹²² See FOF 48, and 77. (The IHO notes the District did complete file reviews as part of the Student's annual review and a file review for the Student's three-year reevaluation per the testimony of the District's Psychologist and Independent Evaluator).

¹²³ See *J.R. v. Ventura Sch. Dist.*, 668 F. Supp. 3d 1054, 1063 (N.D. Cal. 1995). In the instant case, the court found the school district denied the student a FAPE when the district failed to assess for autism and pragmatic language deficits.

¹²⁴ See 34 C.F.R. §300.325 (c).

¹²⁵ See 34 C.F.R. §300.520 (a) (2)

¹²⁶ See 64 Fed. Reg. 12,471 (1999). See *D.S. and A.S. v. Bayonne Bd. of Educ.*, 54 IDELR 141 (3d Cir. 2010).

must write IEP goals in a way that allows for an objective measurement of the child's progress toward achieving the annual goals.¹²⁷ Courts and hearing officers have often found IEPs containing vague or immeasurable goals deny FAPE.¹²⁸ The Student's IEPs failed to include measurable annual goals and objectives in both 2023 and 2024.¹²⁹ Thus, the IHO concludes that the District failed to provide the Student with an IEP that included measurable annual goals and objectives.

91. Under the IDEA are an array of supportive services provided to children with disabilities to assist them in benefiting from special education. Related aids and services must be provided to the extent that they enable a district to meet the individual educational needs of a student with a disability as adequately as it meets the needs of nondisabled students. Each student's need for related services, like the need for special education, is determined on an individual basis as part of the IEP process. The student's IEP must contain "a statement of the specific education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to or on behalf of the child."¹³⁰ Additionally, each IEP requires a statement of the "anticipated frequency, location, and duration" of related services that will be provided¹³¹. The District essentially dismissed the Student from any speech and language direct services, despite the Student's long-standing demonstration of deficits in pragmatic language and indications of a language disorder which the District ultimately diagnosed via the IEE of the District's independent speech and language pathologist.¹³²

¹²⁷ See 71 Fed. Reg. 46,662 (2006). See, e.g., *Jefferson County Sch. Dist. RI*, 110 LRP 22618 (SEA CO 12/01/09) (finding that the student's postsecondary goal, which called for him to "explore careers that involve physical movements, such as construction, delivering, sorting, etc.," was neither measurable nor based on age-appropriate transition assessments).

¹²⁸ See, e.g., *Anchorage Sch. Dist.*, 51 IDELR 230 (SEA AK 2008), aff'd, 54 IDELR 29 (D. Alaska 2009) (noting that the lack of specificity in the IEP prevented an objective analysis of whether the child was making progress toward his < goals > and objectives); and *Bastrop Indep. Sch. Dist.*, 116 LRP 13753 (SEA TX 01/05/16) (finding that a generalized set of assistive technology goals meant that the student's IEP was not designed to provide a meaningful educational benefit). In *Mason City Community School District*, 46 IDELR 148 (SEA IA 2006), the administrative law judge suggested that a properly written IEP goal will pass the "stranger test." That is, a person unfamiliar with the student's IEP would be able to implement the goal, assess the student's progress on the goal, and determine whether the student's progress was satisfactory.

¹²⁹ See FOF 67 and 68.

¹³⁰ See 34 C.F.R. §300.320 (a)(4).

¹³¹ See 34 C.F.R. §300.320 (a)(7).

¹³² See FOF 50 and 75 and the testimony of the District's Independent Speech and Language Pathologist.

92. State laws may direct districts to conduct FBAs in other circumstances, such as whenever the behavior of a student with a disability is an issue of educational significance.¹³³ Because IEP teams have an obligation to provide FAPE to students with disabilities, they also must conduct an FBA if they determine that doing so is necessary to develop an appropriate IEP. Neither the IDEA nor its implementing regulations describe the steps required to complete an FBA. State law or local policy may articulate a specific process. Regarding conducting behavioral assessments, the U.S. Education Department notes that the IDEA "requires the public agency to ensure that the child is assessed in all areas related to the suspected disability."¹³⁴ This could include, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. This is not an exhaustive list of areas that must be assessed. Decisions regarding the areas to be assessed are determined by the suspected needs of the child. If a child's behavior or physical status is of concern, evaluations addressing these areas must be conducted."¹³⁵
93. If an FBA is an "evaluation" under the IDEA, it must comply with IDEA evaluation procedures at 34 CFR 300.304 through 34 CFR 300.311.¹³⁶ Those procedures include the obligation to draw on information from a variety of sources.¹³⁷ According to OSEP, if the FBA focuses on the educational and behavioral needs of a specific child, the FBA qualifies as an evaluation or re-evaluation under Part B and triggers all the accompanying procedural safeguards, including the need to seek parental consent.¹³⁸ In developing an IEP, the IDEA requires that IEP teams consider behavior management whenever a student's behavior is interfering with the child's ability to benefit from his educational programming. Specifically, the IDEA states that the IEP team must consider the child's need for the use of "positive behavioral interventions and supports" in the case of a student with a disability whose "behavior impedes his learning or that of

¹³³ See, e.g., *T.G. v. New York City Dep't of Educ.*, 62 IDELR 20 (S.D.N.Y. 2013) (recognizing that a New York district failed to conduct an < FBA > of a 10-year-old boy with autism as required by state law).

¹³⁴ See 34 CFR 300.304 (c)(4).

¹³⁵ See 71 Fed. Reg. 46,643 (2006).

¹³⁶ See 34 C.F.R. §300.15.

¹³⁷ See, e.g., *Volusia County Sch. Bd.*, 123 LRP 24089 (SEA FL 06/07/23).

¹³⁸ See 48 IDELR 161 (OSEP 2007).

others."¹³⁹

94. During the Student's 7th grade year, the Student struggled with behaviors that included: impulse control, remaining on task, required frequent redirection and prompting, taking responsibility for actions, work avoidance, managing emotions (would yell and cry and these would escalate if the TDS attempted to intervene), and the District agreed that these behaviors impeded the Student's learning.¹⁴⁰ The TDS did not have an effective behavior management system to either correct the Student's maladaptive behaviors or address them to mitigate the impact on the Student's learning.¹⁴¹ The TDS attempted to implement a new plan for the Student's behavior during the fall of the Student's 9th grade year. During the fall of the Student's 9th grade year, the TDS began charting the Student's behaviors. This process is typically one of the initial steps in developing an FBA.¹⁴² At this point, the Parent decided to unilaterally place the Student at a 90-day therapeutic residential facility due to the serious increase and frequency of the Student's behaviors both at home and at school.¹⁴³ Even though it appeared the TDS began the process of developing an FBA for the Student when the TDS began charting the Student's behavior in the 9th grade, and even though the District contended that the Parent prevented the District from completing the FBA when the Parent pulled the Student for the unilateral placement, the damage had already occurred since the increase in behaviors began two years earlier in the 7th grade as noted above.¹⁴⁴ Thus, the IHO concludes the District failed to complete an FBA and BIP for the Student that had the potential, if the District had completed both, of eliminating the need for the unilateral placement.¹⁴⁵ Thus, the District failed to provide the Student with a FAPE by failing to include measurable goals and objectives in the Student's IEP, failing to provide the Student with speech and language services to address the Student's receptive and expressive language

¹³⁹ See 34 CFR 3§00.324 (a)(2)(i).

¹⁴⁰ See FOF 49.

¹⁴¹ See FOF #49, 51, and 52 and footnote 37.

¹⁴² See Illinois State Board of Education <https://www.isbe.net> > SPEDIEPForms

¹⁴³ See FOF #57 and 62.

¹⁴⁴ The IHO notes that for the first time, the District determined an FBA and BIP were appropriate for the Student. See Joint Exhibit (16) at p. (J191).

¹⁴⁵ The IHO notes that the testimony of the Student's Independent Evaluator opined that the Student's eventual unilateral placement may have been avoided if the District had completed an FBA and BIP when the behaviors first escalated.

disorders and pragmatic language deficit, and failing to timely complete an FBA and BIP for the Student.

95. The Petitioner Proved that the Respondent denied the Student a FAPE by failing to properly consider the several recommendations from various clinicians from ██████████ when the IEP team made decisions with respect to the provision of a FAPE to the Student.

96. As early as 2015, the Student exhibited serious maladjustment behaviors, as noted in the first IEE completed for the Student.¹⁴⁶ Not only did the identified behaviors continue, but the behaviors also increased in both frequency and duration.¹⁴⁷ The TDS frequently contacted the Parent seeking advice on how to handle the Student and regularly asked the Parent to retrieve the Student from school and take the Student home. This occurred on such a regular basis that the frequent phone calls resulted in the Parent's employer issuing a disciplinary consequence to the Parent at work.¹⁴⁸ After two plus years of experiencing the lack of progress for the Student and the Student's steadily increasing behaviors in frequency and intensity both at home and school, the Parent notified the District of the Parent's intent to unilaterally place the Student in a 90 day therapeutic residential program, and then later, at the ██████████ residential facility.¹⁴⁹ While at the 90-day facility, the facility's psychologist completed a neurological evaluation of the Student.¹⁵⁰ The District accepted the diagnosis from the IEE that the Student's primary eligibility criteria was Autism Spectrum Disorder.¹⁵¹ However, the District still maintained the Student did not require a residential placement despite the significant history of maladjusted behaviors both at school and home while at the TDS and even worsening behaviors while at the 90-day residential facility, and the Student's time at the ██████████ therapeutic residential facility.¹⁵² Instead, the District continued to maintain the Student's placement as a TDS.¹⁵³ A little over three months later, the District concluded the Student's LRE was indeed a therapeutic

¹⁴⁶ See FOF 48.

¹⁴⁷ See FOF 55 and 58.

¹⁴⁸ See FOF 52 and Footnote 38.

¹⁴⁹ See FOF 57.

¹⁵⁰ See FOF 60.

¹⁵¹ See FOF 65.

¹⁵² See FOF 49, 51, 52, 55, 56, 64.

¹⁵³ See FOF 68.

residential facility.¹⁵⁴ A third IEE completed by a psychiatrist employed by the Parent concluded that the delay in diagnosing the Student with Autism Spectrum Disorder may have caused the Student's significant behaviors that eventually caused the Parent to place the Student in the residential facilities.¹⁵⁵ A residential placement does not need to maximize the student's potential or provide every special education service and support the student needs to be deemed "appropriate" for reimbursement purposes.¹⁵⁶ A unilateral private placement is "appropriate" for reimbursement purposes if it offers instruction that is specially designed to meet the student's unique needs as well as the support services the student requires to benefit from that instruction.¹⁵⁷

97. If a student has significant behavioral needs, the private program must be designed to address them.¹⁵⁸ At least three federal Circuit Courts have held that a private school does not have to be a student's least restrictive environment to qualify as an appropriate placement for reimbursement purposes.¹⁵⁹

¹⁵⁴ See FOF 79.

¹⁵⁵ See FOF 80.

¹⁵⁶ See, e.g., *C.B. v. Garden Grove Unified Sch. Dist.*, 56 IDELR 121 (9th Cir. 2011), *cert. denied*, 111 LRP 68912, 132 S. Ct. 500 (2011) (holding that a private placement may be "appropriate" even if it fails to offer every special education service needed to maximize a child's potential). See also, e.g., *Frank G. and Dianne G. v. Board of Educ. of Hyde Park*, 46 IDELR 33 (2d Cir. 2006), *cert. denied*, 109 LRP 29770, 552 U.S. 985 (2007) (ruling that although the private placement did not provide the student with an individual aide or consulting services, the student received an educational benefit from the small class size and the individualized instruction); and *Board of Educ. of the Wappingers Cent. Sch. Dist. v. D.M. and A.M.*, 78 IDELR 2 (2d Cir. 2020, *unpublished*) (holding that because the "test for parents' private placement is not perfection," the student's improvement in both his reading comprehension and math skills supported the SRO's finding that the private school was appropriate).

¹⁵⁷ See, e.g., *M.N. v. State of Hawaii, Dep't of Educ.*, 60 IDELR 181 (9th Cir. 2013, *unpublished*) (finding that by limiting the student's program to language acquisition, the private school failed to address his needs regarding academics, social interaction, group instruction, generalization of skills, and personal care and grooming); *Ward v. Board of Educ. of the Enlarged City Sch. Dist. of Middletown, N.Y.*, 63 IDELR 121 (2d Cir. 2014, *unpublished*) (holding that the placement was not "appropriate" for purposes of reimbursement because the placement did not address a teenager's behavioral deficits or need for specialized instruction in math); and *Lauren P. v. Wissahickon Sch. Dist.*, 51 IDELR 206 (3d Cir. 2009 *unpublished*) (holding that the parents of a teenager with ADHD could not recover the costs of a private school program that failed to address her distractibility and organizational difficulties -- her two key areas of behavioral need).

¹⁵⁸ See *Steckelberg v. Chamberlain School District*, 123 LRP 24587 (8th Cir. 08/15/23), the 8th Circuit found the facility selected by the parents was specially designed for the South Dakota teen. It was equipped to handle problematic behaviors and structured so students could attend counseling during the week. The court also pointed out the facility partnered with an online school to let students focus on therapy and social skills outside of class.

¹⁵⁹ See *Warren G. v. Cumberland County Sch. Dist.*, 31 IDELR 27 (3d Cir. 1999) (An appropriate private placement is not disqualified because it is a more restrictive environment than that of the public placement.); *Cleveland Heights-University Heights City Sch. Dist. v. Boss*, 28 IDELR 32 (6th Cir. 1998) (rejecting the district's contention that the private school was not appropriate because it did not meet the mainstreaming requirement of the IDEA.); and *C.B. v. Special School District No. 1, Minneapolis*,

98. The fact that a student with a disability benefited from or made progress in a private program will not in itself entitle the parents to tuition reimbursement. The parents must also show the program addressed the student's unique disability-related needs.¹⁶⁰
99. To obtain a reimbursement award, the parent must prove that the unilateral private placement is appropriate for the student.¹⁶¹ The fact that the District finally concluded that the Student required residential placement indicates the Parent's unilateral decision to facilitate such placement was appropriate. In assessing whether the district offered FAPE, the focus is on whether its proposed placement was appropriate, not the adequacy or superiority of the unilateral placement. The appropriateness of the proposed public placement for a student who had previously been unilaterally removed to a private placement is determined by an analysis of whether the public placement would provide the student with an educational benefit. The determination should not include an analysis of whether the private placement benefited the student and was likely to do so in the future.¹⁶² The parents of a child with a disability who placed their child in a private school may receive reimbursement for tuition if a court finds that the public agency did not make FAPE available prior to the placement and that the

Minn., 56 IDELR 187 (8th Cir. 2011) (concluding that a Minnesota district could not avoid paying for a student's private placement in a school for children with SLDs simply by pointing out that the school did not serve any general education students); *See also C.L. and G.W. v. Scarsdale Union Free Sch. Dist.*, 63 IDELR 1 (2d Cir. 2014) (ruling that although courts may consider the restrictiveness of a private placement when determining whether that placement is appropriate, they must also look at the services the private program offers).

¹⁶⁰ *See, e.g., R.H. v. Board of Educ. Saugerties Cent. Sch. Dist.*, 74 IDELR 221 (2d Cir. 2019, *unpublished*) (A seventh-grader's improved attendance resulted from being allowed to opt out of unpreferred tasks as opposed to specific services to address his anxiety.); and *Lauren P. v. Wissahickon Sch. Dist.*, 51 IDELR 206 (3d Cir. 2009 *unpublished*) (holding that the parents of a Pennsylvania teenager with ADHD could not recover the costs of a private school program that failed to address her distractibility and organizational difficulties -- her two key areas of behavioral need).

¹⁶¹ *See, e.g., R.H. v. Board of Educ. Saugerties Cent. Sch. Dist.*, 74 IDELR 221 (2d Cir. 2019) (noting that the private school did not provide any specially designed instruction to address the student's anxiety, the 2d Circuit held that the placement was not "appropriate" for reimbursement purposes). The Supreme Court in 2020 declined to define what is "appropriate" for a unilateral placement > in *W.A. and M.S. v. Hendrick Hudson Central School District*, 74 IDELR 186 (2d Cir. 2019), *cert. denied*, 120 LRP 2007, 140 S. Ct. 934 (2020).

¹⁶² *See Lewis v. School Bd. of Loudoun County*, 19 IDELR 712 (E.D. Va. 1992) (concluding that although the student had benefited from the year at the private school, sufficient evidence was presented to establish the appropriateness of the proposed IEP.).

private school placement is appropriate.¹⁶³ In this instance, the Student had been displaying serious maladjusted behaviors for many years.¹⁶⁴ Additionally, while the District eventually accepted the diagnosis of Autism Spectrum Disorder from one of the completed IEEs, the District continued to maintain the Student's most appropriate placement as a TDS.¹⁶⁵ The District concluded this despite the information that the District's recommended TDS indicated the Student's need for restraint precluded the TDS from accepting the Student.¹⁶⁶

100. A reimbursement award may be reduced or denied based upon the equities.¹⁶⁷ The implementing regulation does not require a district to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in a private school or facility.¹⁶⁸

101. The IDEA permits a court to limit or deny reimbursement if:

1. At the most recent IEP team meeting that the parents attended prior to the child's withdrawal from public school, the parents did not inform the IEP team that they were rejecting the placement proposed by the district (including stating their concerns and their intent to enroll their child in a private school at public expense); or at least 10 business days (including any holidays that occur on a business day) prior to the removal of the child from public school, the parents did not give written notice to the district of the same information. In this instance, the Parent provided the District with the appropriate notice.¹⁶⁹
2. If, prior to the parents' removal of the child from the public school, the district informed the parents, through the notice requirements required by the IDEA,¹⁷⁰ of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; (In this instance, the

¹⁶³ See 34 CFR 300.148 (c). See, e.g., *Irvine Unified Sch. Dist. v. Landers and Gagliano*, 124 LRP 1 (9th Cir. 12/26/23, unpublished) (awarding the parents tuition reimbursement where the district failed to show that placing the teen on a modified curriculum provided her FAPE).

¹⁶⁴ See FOF 49, 51, 52, 55, 58, 64, 67, 70, 74, 76.

¹⁶⁵ See FOF 62

¹⁶⁶ See FOF 66.

¹⁶⁷ See 34 CFR 300.148 (d).

¹⁶⁸ See 34 CFR 300.148 (a).

¹⁶⁹ See FOF 57.

¹⁷⁰ See 34 CFR 300.503 (a)(1).

District did not decide to complete an evaluation of the Student until after the Parent placed the Student in the 90-day residential facility)¹⁷¹ or

3. Upon a judicial finding of unreasonableness with respect to actions taken by the parents.¹⁷²

102. While the IHO noted that the District did adopt the diagnosis of Autism Spectrum Disorder as concluded in one of the IEEs provided by the Parent, the information provided by the treating psychologist and psychiatrist at [REDACTED] should have resulted in the IEP team concluding at an earlier stage that the Student required therapeutic residential care. Indeed, the very fact that the District eventually agreed with the Parent's residential placement and documented such in the Student's last IEP confirms the conclusion that the Parent's instincts and reliance on the evidence of significant maladjusted behaviors reported by the TDS, lends credence to the appropriateness of the Parent's unilateral residential placement. Thus, the IHO concludes that the District failed to provide the Student a FAPE by failing to give proper consideration to the data and information regarding the Student's significant behavioral needs contained within the IEEs provided to the District from the Parent.

103. **The Petitioner Failed to prove that the Respondent denied the Student a FAPE when alleging the Respondent failed to follow the IDEA procedures by failing to provide the Parent with meaningful participation in the IEP process by refusing to schedule IEP meetings when asked by the Parent to enable the Parent the opportunity to share the concerns of the Parent for enhancing the education of the Student.**

104. The IDEA requires districts to ensure that the parents of each child with a disability are members of any group that makes decisions about their child's educational placement.¹⁷³ The failure to provide for meaningful participation by parents in the IEP process may result in a denial of a FAPE.¹⁷⁴

¹⁷¹ See FOF 77 and testimony of the Special Education Director.

¹⁷² See 34 CFR 300.148 (d).

¹⁷³ See 34 CFR §300.327 ; 34 CFR §300.501 (c)(1).

¹⁷⁴ See *Deal v. Hamilton County Bd. of Educ.*, 42 IDELR 109 (6th Cir. 2004), cert. denied, 110 LRP 46999 , 546 U.S. 936 (2005), on remand, 46 IDELR 45 (E.D. Tenn. 2006), aff'd, 49 IDELR 123 (6th Cir. 2008). See also *In R.L. v. Miami-Dade County School Board*, 63 IDELR 182 (11th Cir. 2014), the 11th U.S. Circuit Court of Appeals held that parental participation in the IEP process means more than having an opportunity to speak. The court explained that a district must show that it comes to the meeting with an

105. Districts should consider the parents' suggestions and, to the extent appropriate, incorporate these in the IEP.¹⁷⁵ Note that the mandate to "consider" parent input does not mean "acquiesce." The IDEA does not require districts "simply to accede to parents' demands without considering any suitable alternatives."¹⁷⁶

106. In this instant case, it is clear the District afforded the Parent ample opportunities to participate in the IEP process. Over the course of the period encompassed by the Statute of Limitations, the District afforded the Parent the opportunity to participate in ten separate IEP team meetings and fully documented the Parent's concerns and the notes of these discussions reflected that the IEP team listened and considered the Parent's input.¹⁷⁷ While the evidence also supports the IEP team did not agree with the Parent's input, procedurally as noted earlier, the IDEA does not require the District to "acquiesce" to the Parent's input. While the evidence does support that the District erred in not agreeing or "acquiescing" to the Parent's input, the IDEA addresses the error in other ways as documented herein.

107. Thus the IHO concludes that the District did not fail to provide the Parent with meaningful participation in the IEP process

ORDER

108. Based upon the Findings of Fact and Conclusions of Law, the IHO rules for the Parent on Issue 1-3 and for the District on Issue 4. The IHO awards the following relief:

4. ORDERED that the IHO denies the Parent's requested relief for reimbursement for the remaining costs associated with the Student's placement at [REDACTED]

open mind and is "receptive and responsive" to the parents' position at all stages, rather than cutting the conversation short when parents express their concerns.

¹⁷⁵ See, e.g., *Deal v. Hamilton County Bd. of Educ.*, 42 IDELR 109 (6th Cir. 2004), cert. denied, 110 LRP 46999, 546 U.S. 936 (2005), on remand, 46 IDELR 45 (E.D. Tenn. 2006), aff'd, 49 IDELR 123 (6th Cir. 2008); *J.D. v. Kanawha County Board of Educ.*, 48 IDELR 159 (S.D. W.Va. 2007), aff'd, 110 LRP 57258, 357 F. App'x 515 (4th Cir. 2009, unpublished), cert. denied, 110 LRP 57264, 131 S. Ct. 107 (2010); and *E.S. v. Smith*, 74 IDELR 153 (4th Cir. 2019, unpublished).

¹⁷⁶ See *Blackmon v. Springfield R-XII Sch. Dist.*, 31 IDELR 132 (8th Cir. 1999).

¹⁷⁷ See FOF 49, 50, 52, 53, 58, 62, 67, 68, 72, and 79.

5. IT IS FURTHER ORDERED that by March 1, 2025, the District must reimburse the Parent in the amount of \$189,387.00 for the tuition costs while the Student attended the [REDACTED] residential facility from April 2004 through December 20, 2004.
6. IT IS FURTHER ORDERED that by February 15, 2025, the Parent must submit to the District evidence of the invoice from Dr. [REDACTED] and evidence the Parent paid in full the invoice provided.
7. IT IS FURTHER ORDERED that by April 1, 2025, the District must reimburse the Parent for the submitted cost of the evaluation completed by Dr. [REDACTED]
8. IT IS FURTHER ORDERED that the District provide compensatory education for the denial of FAPE to the Student for the 2022-23 school year and the 2023-24 school year, and for the denial of FAPE for the current school year of 2024-25, the IHO directs the District to provide the Student with prospective therapeutic residential placement for two years beyond the conclusion of the 2024-25 school year, or until such time as the parties mutually agree on a less restrictive placement.

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 January 27, 2025. 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 the IHO and all other parties and the Illinois State Board of Education at 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: January 20, 2025

/s/D. Michael Risen
Impartial Hearing Officer

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]
[REDACTED]

And

Mr. Andrew Eulass, Esq., Due Process Coordinator
@: aeulass@isbe.net

On January 20, 2025

/s/D. Michael Risen
D. MICHAEL RISEN, PH.D.
IMPARTIAL HEARING OFFICER

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

APPENDIX A – PERSONALLY IDENTIFIABLE INFORMATION

██████████ v. ██████████ CUSD # ██████████

Case No. 2024-DP-0237

Students Name	██████████
Date of Birth	██████████
Attending School	To be determined
Recommended School	Therapeutic Day School
Parent’s Name	██████████
Treating Psychiatrist	██████████
Parent Independent Evaluator	██████████, Psychiatrist
District Independent Evaluator	██████████, Psychologist
Assistant Principal ██████████	██████████
Special Education Coordinator	██████████
██████████ Exec Dir	██████████
██████████ Exec Dir	██████████
██████████ Spec Ed Teacher	██████████
██████████ Social Worker	██████████
District contracted OT	██████████
██████████ S&L Therapist	██████████
District School Psychologist	██████████
District Out of District Coordinator	██████████
██████████ Social Worker	██████████
District Independent S&L Pathologist	██████████
District Special Education Director	██████████