

ILLINOIS STATE BOARD OF EDUCATION
SPECIAL EDUCATION DUE PROCESS HEARING

IN THE MATTER OF
LD

v.

) ISBE CASE NO. 2025-DP-0069
)
) D. Michael Risen, PhD
) Impartial Due Process
) Hearing Officer

Public Schools

Jurisdiction

1. The IHO conducted the hearing and rendered a decision in the due process complaint notice (DPCN) pursuant to the Individuals with Disabilities Education Act (IDEA)¹ 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 *et. Seq.*

Background

2. At the time of the filing of this DPCN, the complaint involved a 15-year-old female Student. The Student's most recent IEP identified the Student as a student with a specific learning disability (SLD) in reading fluency.² The IHO notes that the IHO provided the parties with a list of documents addressed by witnesses during the hearing. The IHO informed the parties that the IHO intended to only submit those documents for the permanent record once the parties provided confirmation of the parties' agreement with the list. The IHO provided the parties with three business days to confirm or otherwise address the provided list.³ The parties confirmed the

¹ 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.')" (IDEA).

² *See* Joint Exhibit (21) p. (J281).

³ *See* IHO Exhibit (116) pp. (497-501).

- list. The IHO notes that the IHO did not enter any written comments or make other marks that appear on some pages of the submitted documents.
3. The DPCN came before the IHO on or about October 28, 2024.⁴
 4. On October 28, 2024, the District filed the required response to the (DPCN).⁵
 5. On October 30, 2024, the IHO provided the parties with an initial packet of information as required by the Appropriate Standard Practices.⁶
 6. On November 8, 2024, the IHO provided the parties with a summary/order of the recently completed Status Conference.⁷
 7. On November 15, the District filed a motion in limine seeking a ruling related to the statute of limitations (SOL).⁸
 8. On November 22, 2024, the Parent filed the Parent's response to the District's motion on the SOL.⁹
 9. On November 23, 2024, the IHO issued the ruling on the District's SOL motion.¹⁰
 10. On November 25, 2024, the parties timely filed the required Pre-Hearing (PHC) disclosure documents.¹¹
 11. On November 27, 2024, the District filed a continuance motion to extend the 45-day deadline for a decision.¹²
 12. On December 2, 2024, the IHO issued the Continuance Order.¹³
 13. On December 2, 2024, the IHO conducted the Pre-Hearing Conference (PHC) and provided the parties with the IHO's summary and order of the proceedings.¹⁴

⁴ The IHO identified IHO documents as "IHO" followed by the exhibit/page number; the parties submitted one (1) Joint Exhibit book and one separate book per party. Appendix A located at the end of the decision includes all personally identifiable information. *See* IHO Exhibit (1) p. (1).

⁵ *See* HO Exhibit (1) p. (23-39).

⁶ *See* IHO Exhibit (3) p. (40-64).

⁷ *See* IHO Exhibit (11) pp. (78-81).

⁸ *See* IHO Exhibit (12) pp. (82-148).

⁹ *See* IHO Exhibit (13) p. (149-159).

¹⁰ *See* IHO Exhibit (14) p. (160-169).

¹¹ *See* IHO Exhibit (16-17) pp.(174-191).

¹² *See* IHO Exhibit (20) pp. (196-197).

¹³ *See* IHO Exhibit (21) pp. (198-200).

¹⁴ *See* IHO Exhibit (22) pp. (201-209).

14. On December 5, 2024, the Parent filed an email seeking reconsideration of the relief discussed at length and eventually certified during the PHC.¹⁵
15. On December 10, 2024, the District filed an email seeking an order to strike the Parent's reconsideration and filed a motion with objections to certain documents and witnesses filed by the Parent.¹⁶
16. On December 10, 2024, the IHO responded via email and provided the ruling on the Parent's reconsideration request.¹⁷
17. On December 10, 2024, the IHO offered the parties earlier dates for the hearing.¹⁸
18. On December 12, 2025, the IHO granted the Parent an extension for the Parent's response to the District's objections.¹⁹
19. On December 17, 2024, the District emailed the IHO indicating a preference to maintain the current hearing schedule for logistical reasons.²⁰
20. On December 17, 2024, the Parent filed the response to the District's objections to PHC disclosures and filed the Parent's motion objecting to certain witnesses and documents proposed by the District.²¹
21. On December 18, 2024, the IHO issued the ruling on the District's objections.²²
22. On December 18, 2024, via email, the District sought reconsideration of one document in the Parent's submitted disclosures allowed by the IHO.²³
23. On December 18, 2024, the IHO granted the District's reconsideration and ruled in the District's favor.²⁴

¹⁵ See IHO Exhibit (24) pp. (211-213).

¹⁶ See IHO Exhibit (27) pp. (216-220).

¹⁷ See IHO Exhibit (29) pp. (222-223).

¹⁸ See IHO Exhibit (30) p. (224).

¹⁹ See IHO Exhibit (32) pp. (226).

²⁰ See IHO Exhibits (33) pp.(227). The IHO notes the Parent also confirmed at IHO Exhibit (37) pp. (240-241).

²¹ See IHO Exhibit (34-35) pp. (228-237).

²² See IHO Exhibit (38) pp. (242-255).

²³ See IHO Exhibit (41) pp. (258-259).

²⁴ See IHO Exhibit (43) p. (262).

24. On December 20, 2024, the District filed the District's response to the Parent's objections to the District's disclosure documents.²⁵
25. On December 21, 2024, the IHO issued the ruling on the Parent's objections.²⁶
26. On February 18, 2025, the Parent filed the Parent's proposed witness schedule for the hearing.²⁷
27. On February 21, 2025, the District requested a status conference to discuss issues with the witness schedule.²⁸
28. On February 22, 2025, the IHO provided the parties with dates to select for the requested status conference.²⁹
29. On February 24, 2025, the IHO scheduled the status conference.³⁰
30. On February 25, 2025, in response to a Parent inquiry, the IHO provided the Parent with the Illinois State Board of Education's (ISBE) guidance on the use of a parental advocate.³¹
31. On February 25, 2025, the IHO, after assuming responsibility for developing the witness schedule for the hearing, provided a draft for the upcoming status conference.³²
32. On February 26, 2025, the IHO conducted the status conference and developed the 3rd iteration of the witness schedule for hearing and provided the parties with a copy.³³
33. On February 27, 2025, the District emailed the IHO confirming the District's agreement to the 5th and final witness schedule for the hearing.³⁴
34. On March 4, 2025, the Parent also confirmed agreement with the final witness list.³⁵

²⁵ See IHO Exhibit (46) pp. (266-270).

²⁶ See IHO Exhibit (48) pp. (277-280).

²⁷ See IHO Exhibit (49) pp. (281-285).

²⁸ See IHO Exhibit (52) pp. (294-295).

²⁹ See IHO Exhibit (53) p. (296).

³⁰ See IHO Exhibit (61) pp. (313-314).

³¹ See IHO Exhibit (66) pp. (324-325).

³² See IHO Exhibit (67) pp. (326-329).

³³ See IHO Exhibit (74) pp. (344-348).

³⁴ See IHO Exhibit (80) p. (362).

³⁵ See IHO Exhibit (81) p. (363).

35. On March 7, 2025, the District emailed the IHO the link with the District's final witness and document lists.³⁶
36. On March 12, 2025, the District filed a motion in limine objecting to part of the parent's final document disclosures.³⁷
37. On March 16, 2025, the Parent filed the Parent's response to the District's motion in limine.³⁸
38. On March 17, 2025, the IHO emailed the parties with explanation of the delay in the opening of the Zoom link for the first day of hearing (construction project cut the line) and explanation of issues with the initial ruling on the District's motion in limine.³⁹
39. On March 17, 2025, the IHO provided the parties with an emailed copy of the corrected ruling on the District's motion in limine.⁴⁰
40. On March 20, 2025, the IHO provided the parties with a list of documents the IHO identified as documents addressed during the hearing and provided the parties with three business days to confirm or otherwise provide feedback.⁴¹
41. On March 21, 2025, the Parent emailed the IHO and confirmed the accuracy of the documents proposed for the permanent record.⁴²
42. On March 24, 2025, the District emailed the IHO with additional documents for consideration for the permanent record.⁴³ The IHO responded seeking additional information related to one of the documents identified.⁴⁴
43. On March 25, 2025, the IHO emailed the parties confirming the accuracy of the questioned document.⁴⁵ Additionally, the Parent originally submitted a document identified as Parent Document numbered (P963-964) that

³⁶ See IHO Exhibit (86) p (372).

³⁷ See IHO Exhibit (97) pp. (396-406).

³⁸ See IHO Exhibit (103) pp. (417-432).

³⁹ See IHO Exhibit (110) pp. (465-466).

⁴⁰ See IHO Exhibit (112) pp. (468-492).

⁴¹ See IHO Exhibit (116) pp. (497-501).

⁴² See IHO Exhibit (122) p. (551).

⁴³ See IHO Exhibit (123) pp. (552-555).

⁴⁴ See IHO Exhibit (124) p. (556).

⁴⁵ See IHO Exhibit (125) pp. (557-558).

allegedly reflected the curriculum vitae of the Director of [REDACTED]. Upon examination under oath by the District, the Director testified that neither the Director nor the Director's staff created the document. As a result, the District moved to strike the document and the IHO sustained the motion and removed the document from the record.

Issues and Proposed Relief

44. During the pre-hearing conference, the parties certified four issues: Did the District deny the Student a FAPE (Free Appropriate Public Education) by:
- a. Failing to timely identify the Student's dyslexia despite clear indicators brought to the District's attention by staff, parents, and outside evaluators;
 - b. Failing to provide the Student with appropriate evidence-based specialized instruction and accommodations for the Student's dyslexia;
 - c. Failing to consider Parent provided independent educational evaluations (IEEs);
 - d. Failing to provide the student with appropriate instruction and support during the Student's hospitalizations thereby exacerbating the impact of the Student's dyslexia.⁴⁶
45. Should the preponderance of the evidence support the Parent, the Parent seeks the following relief:
- a. Provide the student with compensatory education that includes: the placement of the Student at [REDACTED] for a minimum of one year, at which time, the District must utilize the District's school psychologist to complete a comprehensive neuropsychological evaluation of the Student to determine if the Student performs at grade level in reading, writing and math;

⁴⁶ See IHO Exhibit (22) p. (202).

- b. If the evaluation indicates the Student performs at grade level in reading, writing and math, the District must conduct an IEP team meeting and design specialized instructional programs and related services that enable the Student to complete the Student's high school education at ██████ High School. Further, upon re-enrollment at ██████ High School, the District must allow the Student to continue the Student's participation in the CAPA program and any other co-curricular activities of the Student's choosing;
- c. Provide the Parent with reimbursement for all outside educational expenses from October 16, 2022, to the conclusion of the hearing. The Parent must provide the District and the IHO with evidence of both the invoice for expenses and proof of payment of the invoices. The IHO required the Parent's submission of the evidence by the close of the 5-business day rule.⁴⁷

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:

46. On September 9, 2020, the District initiated a 504 plan for the Student.⁴⁸

47. On September 21, 2022, the Parent sought in writing an evaluation of the Student for special education services. The Parent reported the Parent had the Student evaluated by an outside specialist.⁴⁹ The Parent did not provide the District with a copy of the report.⁵⁰

48. On October 11, 2022, the District via email, provided the Parent with the required Notice of Conference for a domains meeting.⁵¹

49. On December 1, 2022, the Parent informed the District of the Student's

⁴⁷ See IHO Exhibit (22) pp. (203-204)

⁴⁸ See Parent Exhibit p. (090).

⁴⁹ See District Documents p. (D 018) and testimony of the Middle School Counselor

⁵⁰ See Middle School Counselor testimony.

⁵¹ See District Documents p. (D 012) and testimony of the Middle School Special Education Teacher

- current stay at the Mayo Clinic and sought the Student's work.⁵²
50. On December 2, 2022, the District directed the Student's teachers to "Please reach out and prioritize assignments that you want [the Student] to work on and use standards-based grading...this should allow you to limit assignments she needs to complete based on standards covered. Please consider shortening assignments if possible and allow her extra time if needed also."⁵³
51. On December 15, 2022, following the Student's stay at the Mayo Clinic, the District developed a plan to address the Student's medical needs as prescribed by the [REDACTED]. The District's nursing staff developed the plan in consultation with the Student, Parent and [REDACTED]. The plan included limiting homework to one hour per day, allow the Student to maintain a water bottle and snack while attending school, bathroom pass, quiet space once daily, one elective on pause for study time, and the counselor updated the staff regarding changes to the Student's 504 plan. The Parent did not request nor submit documentation for the provision of "Home Hospital Instruction"(HHI).⁵⁴
52. On March 24, 2023, (the Student's several legitimate medical issues caused the delay in convening the IEP team meeting) the District completed an IEP team meeting and reviewed the Independent Educational Evaluation (IEE) from the [REDACTED].⁵⁵ The Student demonstrated growth in both reading and math from the winter of 2022 to the winter of 2023.⁵⁶ The Student qualified as a student with a SLD in reading fluency.⁵⁷ The IEP reflected a unanimous decision, including the Parent, with the eligibility determination and the developed goals to address the Student's identified SLD.⁵⁸ The accommodations included: extended time for testing, small

⁵² See District Documents p. (D48-D 49).

⁵³ See District Documents p. (D 051) and testimony of Middle School Counselor.

⁵⁴ See District Documents p.(D 297) and the testimony of the West Middle School Nurse.

⁵⁵ See Joint Document p. (J 071) and testimony of Middle School Psychologist.

⁵⁶ *Id.* at pp. (J 072-J 073).

⁵⁷ *Id.* at p. (J 075).

⁵⁸ *Id.* at p. (J 077) (J 96-J 103) (J 118).

group testing (if requested), tests read or access to text to speech software, access to text to speech software, retakes when requested by student, pre-teach content specific vocabulary, extended time to complete assignments (when absent due to illness), assignments shortened (only number of problems to demonstrate mastery), provide audio versions of classroom books/novels when available, early access to large/long reading assignments or extended time, breaks as needed either student or teacher directed, pass to see nurse when needed, allow use of vocabulary sheet for content area tests unless assessing vocabulary. Additionally, to address the Student's identified minor hearing loss, the accommodations included preferential seating (off to the side) to see the entire classroom and away from background noise, an FM/HAT system to support low frequency loss, and instruction to watch for signs of listening fatigue and give listening breaks.⁵⁹ The IEP team recommended the Student receive weekly services of 215 minutes. The Student also qualified for a highly selective high school fine arts program known as CAPA. Due to the scheduling of the CAPA program, the Parent opted to reduce those minutes to 43 minutes per week.⁶⁰ The IEP team also reviewed and considered the Parent's submitted neuropsychological IEE.⁶¹

53. On April 9, 2023, the Parent informed the District of the Student's hospitalization and stated the Parent intended to provide the District with a Release of Information (RLI) for the District to "liaise" with the treatment center. The District never received the RLI.⁶²

54. On August 27, 2023, the District responded to the Parent's request to adjust the Student's schedule.⁶³

55. On October 19, 2023, the District informed staff of the Student's absence

⁵⁹ *Id.* at p. (J 087).

⁶⁰ *See* Joint Document p. (J 118) and testimony of the Middle School Case Manager.

⁶¹ *See* Joint Documents (J 135 – J 152) and the High School Case manager's testimony. The IHO notes that the Middle School Counselor also testified that the Student's grade eight school-year end of year grades reflected (at J 430) mostly average to low average performance.

⁶² *See* District Documents p. (D 158) and the testimony of the Middle School Nurse.

⁶³ *See* District Documents p. (D 78-D 79) and testimony of the High School Counselor.

due to the insertion of a feeding tube and directed staff to provide the Student with a pass as needed to the nurse's office and ensure other students treat the Student respectfully.⁶⁴

56. On November 1, 2023, the District followed up with the Parent seeking information from the Student's physician regarding the Student's feeding tube. The District did not receive the information.⁶⁵

57. On November 8, 2023, the District responded to the Parent's request and adjusted the Student's time in physical education to enable the Student to manage ongoing pain by checking in at the nurse's office.⁶⁶

58. On February 28, 2024, the District completed an IEP team meeting and affirmed the Student's disability as a SLD in reading fluency.⁶⁷ The District "again" recommended the Student's enrollment in the District program "[REDACTED]".⁶⁸ The Parent refused the Student's enrollment asserting (without any documented evidence) that the Read 180 Program fails to target dyslexia and is not evidence-based.⁶⁹ The District reviewed the neuropsychological completed by Dr. [REDACTED].⁷⁰

59. On March 12, 2024, the Student experienced issues at school with the feeding tube. The District did not have physician information to enable the District to address the Student's needs.⁷¹

60. On March 27, 2024, the District met with the Parent and the Parent's representative from [REDACTED]. During the discussion, the District reported the District's recommendation of enrollment for the Student in the District's "[REDACTED]". The research-based program

⁶⁴ See District Documents p. (D 99) and *Id.*

⁶⁵ *Id.* At p. (D 101) and the testimony of the High School Nurse.

⁶⁶ See District Documents p. (D 102) and *Id.*

⁶⁷ See Joint Documents pp. (J 197-8) and testimony of the High School Case Manager.

⁶⁸ See Joint Documents p. (J 229).

⁶⁹ See District Documents p. (D 147).

⁷⁰ See District Documents (D 335) and testimony of the Expert Witness The IHO notes that the District's Expert Witness testified that the neuropsychological report completed by Dr. Chin and reviewed by the IEP team failed to adhere to the diagnostic standards required in that the diagnoses provided by Dr. Chin were not based on a clinical synthesis of data as required. The Expert also testified that the report by Dr. Chin did not identify dyslexia as present and Dr. Chin's identification of the Student's Other Specified Anxiety Disorder was inconsistent with "all ratings not reflecting any anxious distress."

⁷¹ *Id.* At p. (D 303) and testimony of the High School Nurse.

- includes computer programming coupled with small group and 1 to 1 instruction.⁷²
61. On April 3, 2024, the District provided the Student with daily 1 to 1 tutoring to address deficits in the Student’s Global Studies classroom.⁷³ The Student earned a “B” in the course.⁷⁴
62. On April 9, 2024, the District provided the Parent with a completed RLI ready for the Parent’s signature and date that sought information related to the all the Student’s medical needs and physician recommended accommodations for the Student while at school. The Parent did not submit the completed form.⁷⁵
63. On April 10, 2024, the District learned of the Student’s recent hospitalization predicted to last for 7-10 days. The District did not receive any further information related to the Student’s hospitalization.⁷⁶
64. On May 14, 2024, the District notified staff of the Student’s recent hospitalization and directed staff to allow the Student to make up all schoolwork.⁷⁷ The District learned (reported by the Student) of the hospitalization due to suicidal ideation and depression.⁷⁸ The school sought to secure a physician’s diagnosis and information related to an emergency plan for the Student and/or physician recommended accommodations for the Student. The District sought an RLI from the Parent to secure the needed information. The Parent did not provide the RLI.⁷⁹
65. On May 16, 2024, the District followed up seeking the RLI and attaching a copy to the Parent’s then legal counsel. The Parent’s legal counsel indicated

⁷² See Joint Document p. (J184) and testimony of the District’s Reading Specialist and High School special education teacher. “Read 180 has been extensively researched and acknowledged by What Works Clearing House showing positive effects on reading fluency, reading comprehension, and literacy achievement. Read 180 is based on Orton-Gillingham principles, providing explicit, systematic instruction and multisensory learning (See D 336 and testimony of the District’s expert). The District’s expert agreed with the appropriateness of the District’s recommendation of Read 180 for the Student.

⁷³ See District Document (D 157) and High School Global Studies teacher’s testimony.

⁷⁴ *Id.*

⁷⁵ See pp. (D 341-342) and testimony of the Nurse Supervisor and High School Nurse

⁷⁶ *Id.* at p. (D 304).

⁷⁷ See Joint Document p. (D 186) and High School Counselor’s testimony.

⁷⁸ See District Document p (D 298) and testimony of the High School Nurse.

⁷⁹ See Nurse Supervisor and High School Nurse testimony.

that the representative intended to share the information with the Parent the next day. The District also learned the Student may not return for the remainder of the year.⁸⁰

66. On May 21, 2025, the District again followed up with an email to the Parent's legal counsel. The District never received the RLI.⁸¹

67. On May 22, 2024, the District received a medical excuse for the Student's absence from May 14, 2024, through June 10, 2024. The document did not provide a diagnosis, HHI certification, or recommended home instructions.⁸² District teachers provided the Parent via email with assignments and directions the Student could address while absent and posted the Student's assignments on Google Classroom. The Parent acknowledged appreciation.⁸³

68. On May 29, 2024, the District provided the Student with 13 specific accommodations targeting the Student's identified SLD in reading fluency. The accommodations included: extended time for testing, small group testing (if requested), tests read or access to text to speech software, access to text to speech software, retakes when requested by student, pre-teach content specific vocabulary, extended time to complete assignments (when absent due to illness), assignments shortened (only number of problems to demonstrate mastery), provide audio versions of classroom books/novels when available, early access to large/long reading assignments or extended time, breaks as needed either student or teacher directed, pass to see nurse when needed, allow use of vocabulary sheet for content area tests unless

⁸⁰ See District Documents pp. (D197-198) (D 307) and testimony of the Executive Director of Special Education and High School Nurse.

⁸¹ *Id.* The IHO notes that during the testimony of the Student's Mother, the District questioned the Mother whether the Mother believed the Mother was fair to hold the District accountable for any failure to provide the Student with HHI services when the Parent failed to provide the legally required RLIs despite the numerous efforts from the District to secure the legally required RLIs. The Mother would not respond to the question despite several attempts by the District and the IHO; direction to respond. (See the testimony of the Student's Mother).

⁸² See Joint Document p. (J 258) the Student's treating psychiatrist's testimony, the High School Nurse's testimony.

⁸³ *Id.* at p. (D2 10-D 212) (D 220) (D 221) and testimony of High School Global Studies teacher, the High School Biology teacher, and the High School English teacher as examples. The Student earned two "Bs" and one "A" in the courses per teacher testimony.

assessing vocabulary.⁸⁴ The Student missed 259 days of school for legitimate medical reasons during a three-year period and 259 days of absenteeism equals the equivalent of approximately 1.5 school years.⁸⁵ To assist the Student, the District proposed the Student's placement in an ICS class to further address the Student's SLD. The Parent denied the accommodation.⁸⁶

69. On or about June 1, 2024, the Student's earned grades for the Student's freshman year in high school reflected: English "A," Global Studies "B," Integrated Math "C," Physical Education "A," Biology "B," CAPA Theater "A," and CAPA Advanced Keyboard "A." The Student earned all necessary credits during the Student's freshman year required for eventual graduation and earned a GPA of 3.333.⁸⁷

70. On September 6, 2024, the District received a medical excuse for the Student's absence. The document did not provide a diagnosis, HHI certification, or recommend home instructions.⁸⁸ The District also received a medical letter stating: "The above patient has been examined by a healthcare professional and may return to work/school on 6/7/24 (the IHO notes the IHO believes 9/7/24 was the intended date) without restrictions. If she has a lapse in her awareness of her surroundings or appears unresponsive, please give her time and space to recover, as those episodes are not a threat to her health and do not require new medical evaluation. She has had some falls to the ground with those episodes, and unless she is injured, she will not need medical evaluation for a fall to the ground. If her altered consciousness lasts for more than 30 minutes, please notify parents. Please do not call EMS for spells of altered consciousness without talking to parents." The letter did not include a medical diagnosis or steps the

⁸⁴ See Joint Document p. (J 309) and testimony of High School Counselor.

⁸⁵ See Joint Document p. (J 323) and the testimony of the Executive Director of Special Education.

⁸⁶ *Id.* at p. (J 325).

⁸⁷ See Joint Document (J 431) and *Id.*

⁸⁸ *Id.* at p. (J 334).

- District could use to develop an emergency plan for the Student.⁸⁹
71. On August 22, 2024, the District provided the Student with a structured study hall known as Intra Curricular Support or (ICS). The structured study hall included a certified special education teacher trained in the Orton Gillingham reading program and the Wilson reading program. During the Student’s time in the ICS class, the Student demonstrated the ability to read the Student’s science test independently and demonstrated comprehension of the material. The ICS teacher did not provide direct instruction via the Orton Gillingham or the Wilson reading program.⁹⁰
72. In September of 2024, the Student performed at the 42nd percentile in “symbol imagery.” The 42nd percentile falls “well within the average range ...reflecting [the Student] does not have a deficit in ‘symbol imagery.’⁹¹
73. On October 14, 2024, the Student demonstrated a need for a reduced schedule of two periods at the end of the day due to the Student’s mental health symptoms. The Parent did not provide the District with a physician’s diagnosis or other suggested accommodations.⁹²
74. After the Parent filed the DPCN (October 16, 2024), the District employed a licensed professional (certified as both a school psychologist and clinical psychologist). After a review and discussion of the individual’s curriculum

⁸⁹ See Joint Exhibit p. (J 335) and testimony of the Student’s treating psychiatrist. The IHO notes that the District’s Nurse Supervisor testified the letter amounted to professional negligence on the part of the treating psychiatrist. The Nurse Supervisor testified that the Illinois Nurse Practices Act governs all district certified nurses. The nurse supervisor further testified that the school nurse’s responsibility under the Act requires the school nurse to exercise the school nurse’s professional judgment when students experience any type of “syncope” (loss of consciousness). Further, if the episode of syncope occurs for up to 30 minutes without a specific physician document specifying steps to take in such cases, the Nurse Supervisor testified that such professional judgment requires the calling of EMS as a host of “very serious” conditions (e.g., stroke, overdose, concussion etc.) can cause the syncope. The Student’s treating psychiatrist testified the document failed to include the diagnosis or information required to develop an emergency plan and that the treating psychiatrist did not ever talk with any district personnel. The Nurse Supervisor acknowledged receiving an email from the Parent (see District Documents pp. (261-262) with 10 suggestions from the Parent. However, the Nurse Supervisor indicated that school nurses are legally bound to only abide by a licensed physician’s recommendations. As a result, the Nurse Supervisor testified that calling EMS constituted the only course of action available to the District should the Student experience another episode of syncope.

⁹⁰ See District Exhibit pp. (D 256-257) and the testimony of the ICS teacher.

⁹¹ See District Document p. (D 337) and the District’s expert testimony.

⁹² See Parent Documents p. (P115 and P805) and the Parent’s testimony, Dr. Wiliam Taft’s testimony, the Student’s treating psychiatrist and the High School nurse’s testimony.

vitae,⁹³ the IHO certified the individual as an expert witness. The expert's specialty included low incidence learning disorders including LD and autism and the expert completes between 60-80 evaluations annually, completes between 10-20 IEEs annually, and provides professional development and consultation to Illinois school districts. The expert revealed that Illinois law defines dyslexia utilizing the definition from the International Dyslexia Association (IDA). The literature identified dyslexia as neurobiological specific learning disability. Characteristics of dyslexia include difficulties with accurate and/or fluent word recognition and typically by poor spelling and decoding. The difficulties have a basis in the phonological component of language. The most common subtypes of dyslexia include phonological or "dysphonetic," "surface" dyslexia (poor reading fluency), or both known as "mixed" dyslexia. Dyslexia is not recognized under the IDEA as a disability nor is dyslexia a stand-alone diagnosis in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition.⁹⁴ The criteria required to diagnose dyslexia from an individual's history include: developmental, medical, family, and educational reports.⁹⁵ Dyslexia qualifies as a SLD. The components required to have a diagnosis of SLD include significantly slower rate of progress from the norm, significant discrepancy at one point in time, and the student's needs are significantly different from those of the student's typical peers, and an intensity or type that exceeds general education resources (adverse impact). First, however, the evaluator must rule out a lack of appropriate instruction. In this case, the evidence indicates the Student has experienced chronic absenteeism throughout the Student's school career. Children who are chronically absent for multiple years between preschool and second grade are much less likely to read at grade

⁹³ See District Documents pp. (D377-D379).

⁹⁴ *Id.* at pp. (D332-D333) and the testimony of the District's Expert.

⁹⁵ *Id.*

level by the third grade.⁹⁶The Student attended kindergarten for 58% of the time. Yet, the Student continued or approached meeting grade-level standards throughout elementary school.⁹⁷ An IEE completed in 2020 identified the student as a student with a SLD in reading (dyslexia).⁹⁸ The assessment failed to adhere to the standard for assessing a SLD. Despite the lack of adherence to the diagnostic standards, the District developed a 504 plan to address the Student’s needs.⁹⁹ The Parent consistently maintained the Student suffered from and outdated term from 1971 - “dyseidetic dyslexia.” The student fails to meet the standards for identification of a student with dyslexia.¹⁰⁰

Conclusions of Law

75. The Purpose of the IDEA is “to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs.”¹⁰¹ In deciding whether a school district provided a student a FAPE, the *Rowley* standard constitutes the first step and includes a two-pronged analysis. One must examine whether the school district complied with the procedures of the IDEA, and next, whether the school district designed an IEP for the student that any reasonable assessment of the IEP demonstrates educational benefit for the student.¹⁰² The first step constitutes a procedural analysis and the second step constitutes a substantive examination of the facts. It is important to note that the IDEA does not require school districts to maximize a student’s potential, but school districts must offer specialized programs and services in a meaningful way that tailors the student’s

⁹⁶ *Id.*

⁹⁷ *Id.* at pp. (D 334).

⁹⁸ *Id.*

⁹⁹ *Id.* And FOF at par. 46. (The IHO notes that future references to FOF will only include the par. Number e.g., “FOF 46”).

¹⁰⁰ *Id.* At p. (D 338).

¹⁰¹ See *Board of Education v. Rowley*, 458 U. S. 176, 179-91 (1982), *Hinson v. Merritt Educ. Ctr.*, 579 F. Supp. 2d. at 98 (citing *Rowley*, 458 U.S. at 200).

¹⁰² *Id.* At *Rowley*.

education to fit the student’s unique circumstances.¹⁰³ Another critical component in deciding a due process complaint rests on the fact that the Court placed the burden of proof on the plaintiff, or person or persons filing the complaint.¹⁰⁴ The Parent must prove the elements of the complaint by the preponderance of the evidence. The preponderance of the evidence standard constitutes the understanding that the IHO finds that the existence of a fact is more probable than its nonexistence.¹⁰⁵ More plainly stated, the preponderance of the evidence standard is evidence that is more convincing than the evidence offered in opposition to it.¹⁰⁶ The preponderance of evidence standard allows both parties to share the risk of error in roughly equal fashion,¹⁰⁷ except that when the evidence is equally balanced, the party with the burden of persuasion must lose.¹⁰⁸

76. Timely Identification of Dyslexia: The IEP is “the centerpiece of the statute’s education delivery system for disabled children.”¹⁰⁹ An appropriate educational program begins with an IEP that accurately reflects the results of evaluations to identify the student’s needs, establishes annual goals related to those needs, and provides appropriate specialized instruction and related services.¹¹⁰ For an IEP to be “reasonably calculated to enable the child to receive educational benefits,” it must be “likely to produce progress, not regression.”¹¹¹ Additionally, the IDEA imposes a “child find”¹¹² obligation on school districts to timely identify, locate, and evaluate children suspected of having disabilities to ensure children with disabilities receive a FAPE. The Parent alleges the District failed to timely

¹⁰³ See *Andrew F. v. Douglas County Sch. Dist. RE-1*, 580 U.S. (2017).

¹⁰⁴ See *Schaffer v. Weast*, 546 U.S. 49, 56-57 (2005).

¹⁰⁵ See *Concrete Pipe & Products of California, IN. v. Construction Laborers Pension Trust for Southern California*, 508 U.S. 602, 622 (1993).

¹⁰⁶ See *Greenwich Collieries v. Director, Office of Workers’ Compensation Programs*, 990 F. 2d 730, 736 (3rd Cir. 1993), *aff’d*, 512 U.S. 246 (1994).

¹⁰⁷ See *Herman & MacLean v. Huddleston*, 459 U.S. 375, 390 (1983).

¹⁰⁸ See *Director, Office of Workers’ Compensation Programs v. Greenwich Collieries*, 512 U.S. 267, 281 (1994).

¹⁰⁹ See *Honig v. Doe*, 484 U.S. 305, 311 (1988).

¹¹⁰ See 34 C.F.R. §300.320 (a) (1, 2, and 4).

¹¹¹ See *Walczak v. Florida Union Free Sch Dist.* 142 F. 3d 119, 130 (2d Cir. 1998).

¹¹² See 20 U.S.C. §1412 (a)(3) and 34 C.F.R. §300.111.

identify the Student's dyslexia despite indicators from staff, parents, and outside evaluators. The evidence shows the District initiated a Section 504 plan on September 9, 2020,¹¹³ and, following the Parent's written request for a special education evaluation on September 21, 2022,¹¹⁴ (after several delays caused by the Student's legitimate medical issues) the District convened an IEP team meeting on March 24, 2023,¹¹⁵ identifying the Student with a specific learning disability (SLD) in reading fluency. Further, the evidence substantially supports the District's efforts to continually provide accommodations for the Student's learning needs hindered by the Student's significant medical issues.¹¹⁶ The District's expert witness testified that the Student does not meet Illinois' criteria for dyslexia,¹¹⁷ which adopts the International Dyslexia Association's definition, due to her average-range performance (e.g., 42nd percentile in symbol imagery) and chronic absenteeism (259 days over three years) impacting reading development.¹¹⁸ The Supreme Court held that a FAPE requires an IEP reasonably calculated to enable progress appropriate to the child's unique circumstances.¹¹⁹ Here, the District's identification of an SLD in reading fluency, rather than dyslexia, was based on evaluative data.¹²⁰ Further, the initial IEP developed included goals, modifications and accommodations agreed to by the Parent that enabled the Student to make appropriate progress considering the Student's unique circumstances as evidenced by the Student's assessment scores, annual grades in Middle School and overall High School GPA.¹²¹ Thus, the evidence supports that the District satisfied its child find duties. Therefore, the District did not

¹¹³ See FOF 46.

¹¹⁴ See FOF 47.

¹¹⁵ See FOF 52.

¹¹⁶ See FOF 50, 51, 54, 55, 57, 61, 65, 66, 67, 68, and 73.

¹¹⁷ See 105 ILCS 5/14.1.03a and FOF 74.

¹¹⁸ See FOF 68 and 74.

¹¹⁹ See *Andrew F. v. Douglas County Sch. Dist. RE-I*, 580 U.S. 386, 403 (2017).

¹²⁰ See FOF 74.

¹²¹ See FOF 52 and 69.

deny the Student a FAPE by failing to timely identify dyslexia from the period of October 16, 2022, through October 16, 2024.

77. Provision of Evidence-Based Specialized Instruction and Accommodations:

IDEA mandates that districts provide specially designed instruction and related services tailored to meet the individual needs of a student with a disability.¹²² The Parent asserts the District failed to provide appropriate, evidence-based instruction and accommodations for the Student's dyslexia. The findings demonstrate that the District implemented an IEP on March 24, 2023, with goals and objectives and accommodations including extended time, text-to-speech software, small-group testing, and initially 215 minutes of weekly services (reduced to 43 minutes at the Parent's request to accommodate the CAPA program).¹²³ On August 22, 2024, the District provided Intra Curricular Support (ICS) with a teacher trained in Orton-Gillingham and Wilson reading programs, though direct instruction in these methods was not utilized.¹²⁴ The District also offered the Read 180 program, a research-based intervention, which the Parent rejected without evidence to support the Parent's claim that it fails to target dyslexia.¹²⁵ The Seventh Circuit clarified that districts need not adopt a parent's preferred methodology if the offered program meets the student's needs.¹²⁶ The Student's academic progress included earning a 3.333 GPA, with better than passing grades in all subjects during her freshman year also supports the appropriateness of the District's program.¹²⁷ Thus, the District fulfilled its obligation to provide a FAPE through appropriate instruction and accommodations during the period of October 16, 2022 through October 16, 2024.

¹²² See 20 U.S.C. § 1401 (9) and (29) and 34 C.F.R. § 300.39.

¹²³ See FOF 52.

¹²⁴ See FOF 71.

¹²⁵ See FOF 58.

¹²⁶ See *Evanston Cmty. Consol. Sch. Dist. No. 65 v. Z.B.*, 803 F. 3d 876, 881 (7th Cir. 2015).

¹²⁷ See FOF 69.

78. Consideration of Independent Educational Evaluations (IEEs): Under IDEA, districts must consider, though not necessarily adopt, independent educational evaluations (IEEs) submitted by parents when developing an IEP.¹²⁸ The Parent claims the District failed to consider IEEs, including a 2020 [REDACTED] evaluation¹²⁹ and a neuropsychological evaluation by Dr. Ester Chin. The record indicates the IEP team reviewed the [REDACTED] IEE on March 24, 2023, noting the Student’s growth in reading and math and reflects the Parent’s agreement with the IEP team’s decisions. The District also reviewed Dr. Chin’s neuropsychological evaluation during the IEP team meeting.¹³⁰ While the Parent disagreed with the District’s offer to provide specific District interventions (e.g., placement in Read 180), IDEA does not mandate adoption of IEE recommendations, only their consideration. Further, the documentation and testimony of the District’s expert witness cast considerable doubt on the Parent’s submitted IEEs.¹³¹ The 7th Circuit ruled that consistent with the *Rowley* standard, the obligation of school districts to provide a student with a FAPE does not mean the “best possible,” education, rather, an education that confers “some educational benefit.”¹³² The District’s documented review and consideration of IEE data when developing the Student’s educational plan satisfies this requirement. Accordingly, the District did not deny the Student a FAPE by failing to consider the Parent-provided IEEs.

79. Instruction and Support During Hospitalizations: IDEA and Illinois regulations require districts to provide educational services during extended absences, such as hospitalizations, when certified by a physician as medically necessary. The Parent alleges the District failed to provide appropriate instruction and support during the Student’s hospitalizations, exacerbating her dyslexia. The findings detail multiple hospitalizations

¹²⁸ See 20 U.S.C. §1415 (b)(1)O and (d) (2)(a) and 34 C.F.R. §300.502(c).

¹²⁹ See FOF 60.

¹³⁰ See FOF 58 and 20 U.S.C. §1415 (b)(1)O and (d) (2)(a) and 34 C.F.R. §300.502(c).

¹³¹ See FOF 74.

¹³² See *M.B. v. Hamilton Se Schs.*, 668 F. 3d 851, 859 (7th Cir. 2012).

(e.g., December 2022, April 2024, May 2024), during which the District provided assignments, shortened workloads, and extended deadlines.¹³³ However, the Parent repeatedly failed to provide Releases of Information (RLIs) or physician certifications for Home Hospital Instruction (HHI), despite District requests.¹³⁴ The Parent did not meet Illinois legal requirements for medical certification for HHI eligibility. In *Board of Education v. Rowley*, the Supreme Court held that FAPE¹³⁵ ensures access to education, not maximal potential. The District's efforts enabled the Student to maintain academic progress (e.g., earning a B in Global Studies with tutoring, a B in Biology and an A in English),¹³⁶ despite incomplete medical documentation. Further, the evidence clearly revealed the Parent limited the District's efforts to support the Student during the Student's many legitimate absences. Thus, the District did not deny FAPE during the Student's hospitalizations during the period of October 16, 2022 through October 16, 2024.

80. Relief Requested by the Parent: The Parent seeks compensatory education that provides the Student with placement at [REDACTED] for one year, followed by reevaluation and return to [REDACTED] High School with CAPA participation, reimbursement for outside expenses from October 16, 2022, and continued CAPA involvement. Compensatory education is an equitable remedy awarded only upon the finding of a FAPE denial.¹³⁷ The IHO cannot grant relief when a denial of FAPE does not occur. Reimbursement for private educational expenses requires proof that the District's program was inappropriate and the private alternative was appropriate. The Student's documented progress under the District's IEP and the lack of evidence demonstrating [REDACTED]'s superiority

¹³³ See FOF 49, 50, 51, 53, 54, 55, 57, 64, 67, and 73.

¹³⁴ See FOF 49, 53, 50 62, 63, and 70.

¹³⁵ See 20 U.S.C. § 1412 (a)(1)

¹³⁶ See FOF 61 and 69.

¹³⁷ See *Reid v. Dist. Of Columbia*, 401 F. 3d 516, 518 (D.C. Cir. 2005), *School Community of Burlington v. Dept. of Educ.*, 471 U.S. 359, 370 (1985), 20 U.S.C. §1412 (a)(10)(C).

preclude reimbursement. The Student's current participation in the CAPA program remains intact, rendering that request moot.¹³⁸ Therefore, the IHO denies the Parent's requested relief.

Final Determination

The preponderance of the evidence establishes that the District did not deny the Student a FAPE. The District timely identified the Student's SLD in reading fluency, provided appropriate instruction and accommodations, considered Parent-provided IEEs, and supported the Student during hospitalizations to the extent possible given the Parent's consistent and ongoing failure to provide legally required medical documentation. The Parent's claims do not meet the legal threshold for a FAPE violation, and her requested relief is unsupported by the evidence or applicable law.

ORDER

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

IT IS SO ORDERED:

Dated: March 26, 2025

/s/D. Michael Risen
Impartial Hearing Officer

¹³⁸ See FOF 52 and 69.

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, which are therefore due by 5pm on April 2, 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.

CERTIFICATE OF SERVICE

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

[REDACTED]

[REDACTED]

[REDACTED]

And

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

On March 26, 2025

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

[REDACTED]

APPENDIX A – PERSONALLY, IDENTIFIABLE INFORMATION

██████████ v. ██████████ Public Schools ██████████

Case No. 2024-DP-0237

Students Name	██████████
Date of Birth	██████████
Attending School	██████████ High School
Recommended School	██████████ High School
Parent's Name	██
Treating Psychiatrist	██████████
Parent Independent Evaluator	██████████ Clinical Psychologist
██ Director	██████████
District Expert	██████████, Clinical Psychologist/Educational Psychologist
Assistant Principal ██████████ High School	██████████
Executive Director Special Education	██████████
High School Procedural Coach	██████████
Middle School Nurse	██████████
Title 1 Reading Specialist	██████████
Middle School Counselor	████████████████████
High School Special Education Teacher	██████████
High School Counselor	██████████
High School Piano Teacher	██████████
Nursing Supervisor	██████████
9 th Grade Physical Education Teacher	████████████████████
High School Psychologist	██████████

Middle School Psychologist	██████████
High School Case Manager	██████████
High School Global Studies Teacher	██████████
High School Biology Teacher	██████████
High School English Teacher	██████████
Middle School Case Manager	██████████
Middle School English Language/Arts	██████████
High School Nurse	██████████
High School Teacher	██████████
Home Hospital Instructor	██████████