

- 5) On September 18, 2025, Randall Slade, Esq., filed a notice of appearance on behalf of the school district and served as substitute counsel going forward. The District filed the District's preliminary disclosures for the Pre-Hearing Conference (PHC).
- 6) On September 19, 2025, the IHO sought confirmation from the District's new counsel whether to plan on the current date for the PHC, or if the District sought to reschedule due to the substitution of counsel. The District responded with a motion to continue and to extend the 45-day deadline to November 30, 2025.
- 7) On September 20, 2025, the IHO issued the continuance order and extended the 45-day deadline to November 30, 2025.
- 8) On September 22, 2025, after feedback from the parties, the IHO rescheduled the PHC to October 1, 2025.
- 9) On September 29, 2025, the parties both filed PHC disclosures.
- 10) On September 30, 2025, in preparation for the PHC, the IHO provided the parties with a document that reflected the IHO's understanding of the proposed issues and requested relief.
- 11) On October 1, 2025, the IHO completed the PHC with the parties and provided the parties with a copy of the PHC Summary/Order that reflected the issues and proposed relief certified for the hearing. The IHO set hearing dates for December 15, 16, and 17, 2025.²

ISSUES AND REQUESTED RELIEF

- 12) The two issues certified for the hearing during the PHC included the following: Did the District deny the Student a Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE) by failing to:
 - a. Provide the Student with an IEP that specifies an appropriate placement that meets the Student's unique needs in the LRE;
 - b. Provide the Student with the appropriate amount of time with the Student's non-disabled peers in the general education setting by providing the Student with appropriate supplementary aids and services that included the provision of an

² The IHO notes that the PHC Summary/Order reflects that the IHO directed the Parent to file a motion for a continuance to extend the 45-day timeline to January 2, 2026 (IHO Communications file p. 102). When completing the IHO communication file in preparation for submitting the decision and record to ISBE, the IHO discovered the Parent failed to file the motion. The IHO emailed the parties and both parties responded with their agreement that the parties authorized the extension of the 45-day timeline during the PHC as reflected in that document (IHO Communications File pp. 165-167).

appropriate Functional Behavior Assessment (FBA) and a Behavior Intervention Plan (BIP)?

- 13) The relief certified for the hearing during the PHC included the following: Should the Parent meet the Parent's burden of persuasion at the hearing, the Parent seeks an order from the IHO that directs the District to:
- a. Convene the IEP team and develop an IEP that provides the Student with an appropriate placement in the general education program with the Student's academic peers by providing the Student with the appropriate accommodations and modifications that include an independent FBA and BIP in order to enable the Student to make appropriate progress in the LRE;
 - b. Provide the Student with compensatory education that enables the Student to function at the appropriate level but for the District's failure to provide the Student with a FAPE by funding academic tutoring with the Dyslexia Area Network for the 2025-26 and 2026-27 school years, 200 hours of tutoring in both math and reading from Sylvan, ESY for the 2025-26 school year.

FINDINGS OF FACT

- 14) On January 19, 2024, the Parent paid for an IEE in Occupational Therapy (OT).³ The Student struggled with visual and fine motor skills and emotional and sensory regulation. The evaluation recommended OT services to address these deficits and executive functioning concerns.⁴ The District IEP team reviewed the IEE, and the IEP provided related services of SLP, OT and SW. The District did not write a goal to address the emotional and sensory regulation issues.⁵
- 15) On February 13, 2024, a private board-certified behavior analyst (BCBA) completed an independent educational evaluation of the Student.⁶ The Student's scored on the TILLS more than two standard deviations from the norm demonstrating in language/literacy skills.⁷ The Student scored low in Executive Functioning, in planning/organization, time management, and

³ J 78-86 Social Worker.

⁴ J 78 Occupational Therapist

⁵ Id.

⁶ J 61 Occupational Therapist.

⁷ J 84 and Id.

working memory skills.⁸ The District did not implement any aspect of the recommendations from the IEEs and the District failed to complete any additional testing of its own.⁹

- 16) On April 12, 2024, the District completed an IEP team meeting for the Student. The Student performed well in the regular classroom including math, reading, PE, science, and social studies¹⁰ and participated effectively 91% of the time.¹¹ The Student also made “great progress” with his social emotional status.¹² The IEP team agreed that the Student did not qualify for special education under either category of emotional or behavioral disability.¹³ Social emotional progress included the Student’s peer interactions, talking with others, planning playtime with students, and demonstrating a more relaxed affect.¹⁴ The Student received 120 minutes of monthly Occupational Therapy (OT), one to one social work 60 minutes monthly, group social work 90 minutes monthly, speech and language therapy 90 minutes monthly, and the guidance of a paraprofessional 2100 minutes daily including regular education attendance.¹⁵ The Student scored two standard deviations below the norm in pragmatic language.¹⁶ The Student’s assessment score reflected a 62% success rate.¹⁷ The Student’s goal for improving self-esteem lacked a measurable baseline in the Present Level of Academic Achievement and Functional Performance.¹⁸
- 17) On May 7, 2024, the District completed an IEP for the Student. The PLAAFP failed to provide any measurable baseline for the purpose of measuring the Student’s goal.¹⁹
- 18) On December 16, 2024, a completed classroom observation in the general education math class reflected zero work avoidance and zero inappropriate behaviors.²⁰

⁸ J 89 and Id.

⁹ School Psychologist.

¹⁰ J 31.

¹¹ J 34 Social Worker.

¹² J 5 Social Worker.

¹³ testimony of Social Worker.

¹⁴ Id.

¹⁵ J 31

¹⁶ J 10 Speech and Language Pathologist (SLP).

¹⁷ J 5 and SLP

¹⁸ J 12 SLP, (the IHO notes that the testimony of the SLP lacked candor, the SLP made many attempts to respond to the question the SLP wanted to respond to and failed to respond directly to the questions posed by the Parent’s counsel. Additionally, the Director agreed that an IEP that lacks a measurable baseline or PLAAFP, results in insufficient goals, which then results in an insufficient IEP).

¹⁹ J 51 Sunday teacher.

²⁰ J 120 Behavior Consultant.

- 19) On January 7, 2025, the completed classroom observation in the [REDACTED] classroom revealed work avoidance on 4/5 activities. Recess represented the activity not avoided. Avoidance behaviors revealed as putting the Student's head down on the Student's desk and stating, "I'm not going."²¹
- 20) On January 13, 2025, a completed classroom observation reflected the Student refused to go to general education science. When given the day's coursework by the general education science teacher, the Student demonstrated work avoidance by answering short answer questions with "idk." After support from the [REDACTED] teacher, the Student's demeanor changed and the Student completed the assignment correctly and "proudly showed the teacher."²²
- 21) On January 21, 2025, the District completed an IEP team meeting for the Student. The District failed to establish the identity of the IEP team members who attended the IEP team meeting as the provided sign-in page reflected no signatures.²³ Further, the IEP left blank the Additional Notes Page.²⁴ PLAAFP data failed to establish the baseline for goal measurement.²⁵ Data related to the Student's total words written (TWW) reflected the Student regressed from August of 2024 to January of 2025.²⁶ Despite the regression noted, the District failed to collect additional data.²⁷ The Student participated in general education without any supplementary aids in physical education (PE), Morning Meeting, and Recess. The Student participated in general education with supplementary aids in math, science, and social studies and participated in the [REDACTED] program for 600 minutes per week, a program for students with emotional and behavioral disabilities.²⁸ The IEP team reduced the Student's paraprofessional time to 900 minutes monthly, reduced occupational therapy to 60 minutes monthly, eliminated speech and language for the Student, despite the Student demonstrating scores two standard deviations below the norm eight months prior²⁹ and maintained the student's social work time of 90 minutes monthly.³⁰ The Student demonstrated 82% accuracy when asked questions related to social situations and 87% accuracy when asked pragmatic

²¹ Id.

²² J 162 Behavior Consultant.

²³ J 97.

²⁴ J126.

²⁵ J 112 and OTR.

²⁶ J 128 School Psychologist.

²⁷ School Psychologist.

²⁸ J 123 School Psychologist.

²⁹ J123 OT

³⁰ J 123 Occupational Therapist.

language questions. Thus, the IEP team discontinued speech and language services (SLP).³¹ The dismissal occurred without additional testing completed for SLP³², even though such testing is district protocol and the Director disagreed with the dismissal.³³ The Student demonstrated effective participation in general education math and established several close friends. The Student behaved well in class.³⁴

- 22) On January 6, 2025, an independent, certified Orton Gillingham tutor assessed the Student. The results identified deficits in dysgraphia, that revealed sporadic letter shapes in form and size, with some letters heavily tilted, and most letters floating above the line. The Student reverses the letter b and d 50% of the time and the Student requires structured literacy therapy, structured math therapy, one to one tutoring, occupational therapy, and emotional regulation therapy.³⁵
- 23) On May 8, 2025, the District completed another IEP team meeting. The IEP reflected the Student participated in regular education with supplementary aids and services in math, science and PE.³⁶ The IEP team expressed a goal of integrating the Student into regular education “as much as possible” with the ██████ program providing the Student with “some support.”³⁷ However, the IEP reflected that the Student’s time in the ██████ program entering the 6th grade at the Middle School increased from 600 minutes per week to 1000 minutes per week.³⁸ The Student diSLPayed appropriate behavior in the regular classroom and during services provided by the Student’s related services providers.³⁹ The Student diSLPayed a “great sense of humor”, “is very quick-witted,” and the Student’s main struggle “is having confidence in his social and academic abilities.”⁴⁰ During the two-year statute of limitations period, other students in the ██████ program diSLPayed behaviors of property destruction, aggression towards staff and peers, disrobing, and urinating in the classroom.⁴¹ Beginning with the second semester of the 2024-25 school year, the Student began emulating the

³¹ J 101 and SLP.

³² J 128-29 and SLP

³³ Emails numbered pp. 349-350 and Director of Special Education and SLP.

³⁴ Fifth Grade Math teacher.

³⁵ J 421 Orton Gillingham tutor.

³⁶ J 165.

³⁷ J 171 Assistant Director.

³⁸ J 165 Orton Gillingham Teacher.

³⁹ testimony of Sunday/Orton Gillingham Teacher, math teacher, ██████ teacher, OTR, and the Assistant Director.

⁴⁰ J 145 Social Worker.

⁴¹ School Psychologist and Social Worker and ██████ teacher and Director of Special Education.

inappropriate behaviors of the other [REDACTED] students, where before the Student effectively ignored the behaviors, demonstrating some regression in diSLP'ed behaviors.⁴² For the most part, the Student's inappropriate behaviors reflected passive work refusals like putting his head on his desk or putting on head phones.⁴³

- 24) On May 20, 2025, behavior data for the Student for the previous 136 school days, revealed the Student displayed appropriate behaviors 86% of the time.⁴⁴ The District's behavior consultant created the data sheets and reviewed the results every six weeks.⁴⁵ Over the course of one school year, the Student eloped twice, once from the Student's math class to the [REDACTED] program and once out of the building.⁴⁶ These two incidents constituted the Student's only incidents of overt inappropriate behavior.⁴⁷
- 25) On July 22, 2025, the Student's [REDACTED] teacher recommended in writing a placement for the Student in "an inclusion/resource special education model." The extraneous noise and other student's behaviors in the [REDACTED] classroom contributed to the Student's dysregulation. The Student's regular education teachers agreed that the Student's progress, classroom observations of the Student, and the Student's behavioral data support placement in the general education classroom with appropriate supports.⁴⁸ The IEP team in May of 2025 agreed with the placement recommendation,⁴⁹ and the IEP team expressed the intent to integrate the Student in regular education as much as possible.⁵⁰
- 26) On August 25, 2025, the Student's private BCBA recommended the District consider providing the Student with a placement in the general education classroom with push-in resource room support. The recommendation also noted that the Student reported "feeling overstimulated by disruptive behaviors from other students" in the [REDACTED] program.⁵¹ The

⁴² [REDACTED] teacher and Parent. The IHO notes the IHO found the testimony of the [REDACTED] teacher as credible.

⁴³ J 102 and [REDACTED] teacher.

⁴⁴ J236-J404 Behavior Consultant. The IHO notes that the District documented similar behavior data of 90% for the Student from October of 2023 through December of 2023 and 84% in March of 2024.

⁴⁵ Id.

⁴⁶ Assistant Principal

⁴⁷ Assistant Director and [REDACTED] teacher.

⁴⁸ J 411-412 and [REDACTED] teacher and math teacher. The IHO notes the [REDACTED] teacher testified that the placement reflected on J165 for the Student's 8/13/25 IEP educational services page did not reflect what the [REDACTED] teacher remembered the IEP considered as the appropriate placement for the Student during the May of 2025 IEP team meeting.

⁴⁹ [REDACTED] teacher.

⁵⁰ J 171 and Assistant Director of Special Education.

⁵¹ J 409 and BCBA.

BCBA reported the Student experienced chaos in the [REDACTED] classroom and the chaos limited the Student's access to teaching while in the [REDACTED] classroom.

PARENT'S CLOSING ARGUMENT

27) The Parent argued that the Student, who has Autism and tends to exhibit passive behaviors such as shutdowns, refusals, and low self-esteem—instead of the more aggressive or disruptive actions often associated with emotional or behavioral disorders—was incorrectly placed in the restrictive [REDACTED] (ED/BD) program beginning in 2023. Key evidence highlighted included: the chaotic environment in [REDACTED] (peers engaging in property destruction, disrobing, urinating) causing overstimulation, regression, and the Student's behaviors as adaptive responses to that setting rather than justification for it; success and appropriate behavior in general education with minimal prompting; recommendations from the [REDACTED] teacher, private BCBA, and general education teachers for inclusion/resource models; increasing [REDACTED] minutes (600 to 1000 weekly) despite progress, reflecting programmatic convenience over individualization; minimization of supports (discontinuation of speech without evaluation, reductions in social work/OT, outdated FBA/BIP); defective IEPs lacking measurable baselines, needed goals (e.g., decoding, pragmatics, sensory regulation, executive functioning), and due consideration of private reports; all resulting harm to academic, social-emotional progress. The Parent contended this violated LRE's presumption of educating the Student with the Student's non-disabled peers to the greatest extent appropriate when providing maximized aids/services, and requested placement in co-taught general education with supports (aide, independent FBA/BIP), restored related services, IEEs, and substantial compensatory education (tutoring hours, ESY, reimbursements). If the District provided the Student with a co-taught classroom that included the regular education teacher, special educator and one-to-one aide the impact provides the Student with a student to adult ratio of 1-10 in a classroom of 30 students.

DISTRICT'S CLOSING ARGUMENT

28) The District asserted that the hybrid placement (general education in strengths like math/science/PE + [REDACTED] support for other subjects) provided FAPE in the LRE, tailored to the Student's autism-related anxiety, refusals to attend non-preferred general education classes, and need for a small, structured "home base" to regulate emotions and avoid elopements. Key evidence included: consistent refusals/elopements driven by anxiety in larger general education settings (~30 students); academic and goal progress in [REDACTED] despite

described chaos; mastery of goals, justifying discontinuation/reduction of services (speech, OT, social work); adequate existing FBA/BIP with ongoing data review (no update required); consideration (but not adoption) of private evaluations; and IEP team's expertise supporting gradual integration, not full mainstreaming, as co-taught settings lack a retreat option. The District highlighted that there was no proof service changes affected performance, noted behaviors were disruptive enough to require interventions, and stated that relief should only address certified concerns (excluding retrospective reimbursements except for the requested neuropsychological evaluation). The District requested a finding of no FAPE denial and no relief awarded.

CONCLUSIONS OF LAW

- 29) The purpose of the IDEA is to ensure that all children with disabilities receive a free appropriate public education and related services “designed to meet their unique needs and prepare them for further education, employment and independent living.”⁵² A district must comply with the IDEA’s procedural and substantive requirements in order to provide a free appropriate public education (FAPE) to a student.⁵³ To meet its substantive obligation, a district “must offer an IEP reasonably calculated to enable the student to make progress in light of the student’s circumstances⁵⁴.
- 30) The IDEA requires a statement of measurable annual goals, including academic and functional goals, designed to meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum; and to meet each of the child’s other educational needs that result from the child’s disability. Without a clear, data-based baseline in the PLAAFP, goals cannot be objectively measurable (e.g., no starting point to track progress toward).⁵⁵ PLAAFPs must include “measurable” information where possible to inform goal setting and progress monitoring.⁵⁶ Failing to

⁵² 20 U.S.C. §1400(d)(1)(A).

⁵³ *Board of Educ. of the Hendrick Hudson Cent. Sch. Dist., Westchester Cnty. v. Rowley*, 458 U.S. 176(1982) (“Rowley”).

⁵⁴ *Endrew F. ex rel. Joseph F. v. Douglas County Sch. Dist.* RE-1, 580 U.S. 386, 399 (2017).

⁵⁵ 34 C.F.R. §300.320(a)(2) and 34 C.F.R. §300.324(a)(1).

⁵⁶ OSEP notes to 71 Fed. Reg. 46662 (Aug. 14, 2006).

provide PLAAFP that serve as a baseline for writing measurable goals can constitute a denial of FAPE.⁵⁷

- 31) The District failed to write IEPs reasonably calculated for appropriate progress, as the Student regressed in written expression from August 2024 to January 2025.⁵⁸ The Parent shared various IEEs with the District that demonstrated ongoing deficits in language/literacy (two standard deviations below norm),⁵⁹ executive functioning deficits⁶⁰, dysgraphia/handwriting⁶¹, and sensory/emotional regulation⁶² experienced by the Student. The Student's IEPs lacked necessary goals in these areas despite the information from the private providers' recommendations.⁶³ Further, the IEP completed by the District failed to establish that the IEP team reviewed the IEEs as required by law.⁶⁴ The IEP also reflected insufficient goals due to the PLAAFP which lacked measurable baseline data, thereby creating insufficient IEPs.⁶⁵
- 32) FAPE must be delivered in the least restrictive environment (LRE), meaning that "[t]o the maximum extent appropriate," children with disabilities are educated with nondisabled peers, and special classes or removal may only occur when education in regular classes with supplementary aids and services cannot be achieved satisfactorily.⁶⁶ Instead, the District increased the Student's placement in the ██████ program from 600 to 1000 minutes weekly.⁶⁷ The District's decision to increase the Student's minutes in the ██████ program resulted in an increase of 67% in a more restrictive setting from the prior year. The IHO finds this decision resulted in an overly restrictive placement as the Student exhibited primarily passive behaviors (work avoidance/shutdowns also the behaviors occurred mostly in the ██████ program).⁶⁸ The chaos in the ██████ program (property destruction, aggression, disrobing,

⁵⁷ *SB and SB, Individually and on Behalf of CB, Plaintiffs, v. New York City Dept of Ed., et al.*, 70 IDELR 221, 117 LR 41952, (US Dis Ct, NY, 2017).

⁵⁸ Finding of Fact (FOF) 21.

⁵⁹ FOF 15 & 16.

⁶⁰ FOF 15.

⁶¹ FOF 22.

⁶² Id.

⁶³ FOF 14,15, & 21.

⁶⁴ FOF 21.

⁶⁵ FOF 16 and 21 and Footnote 17.

⁶⁶ 20 U.S.C. § 1412(a)(5)(A); 34 C.F.R. § 300.114(a)(2)(i)-(ii);

⁶⁷ FOF 23.

⁶⁸ FOF 21 and 23.

urinating),⁶⁹ at one point exacerbated the Student's behaviors, but only while the Student attended the ██████ program.⁷⁰ The Student demonstrated success in general education (zero inappropriate behaviors in math),⁷¹ the student demonstrated effective participation (91%) in the ██████ program,⁷² the Student behaved appropriately in the Student's general education classrooms, established close friends, had a sense of humor and was quick-witted.⁷³ The Student also demonstrated progress when provided the appropriate supports.⁷⁴

- 33) Placement decisions must be individualized, based upon the IEP, and the placement decision must also consider potential harmful effects of restriction versus benefits of inclusion with aids/services.⁷⁵ The District failed to sufficiently individualize the placement for the Student, which resulted in harm to the Student (overstimulation/chaos/dysregulation limiting access),⁷⁶ and emulation of inappropriate behaviors/regression.⁷⁷ General education teachers, the ██████ teacher, and the Student's private BCBA all recommended a co-taught/inclusion/resource model with appropriate supports and services.⁷⁸ Yet, the District failed to implement a less restrictive placement despite demonstrated agreement on the Student's progress when provided with appropriate aids and services⁷⁹ and the IEP team's agreement that the Student's placement reflect integration "as much as possible"⁸⁰.
- 34) When behavior impedes learning, the IEP team must consider positive behavioral interventions, supports, and strategies, including an FBA and BIP when appropriate.⁸¹ The District failed to update the existing FBA/BIP or adequately respond to the Student's changing needs and environment (behavior data reviewed every six weeks but behaviors tied to ██████ reflect overstimulation due to the documented chaos in the ██████ program).⁸² The Student's behaviors like work refusals and/or other work avoidance occurred mostly in

⁶⁹ FOF 23.

⁷⁰ Id.

⁷¹ FOF 21.

⁷² FOF 16.

⁷³ FOF 21.

⁷⁴ FOF 20 and the ██████ teacher, private BCBA, private Orton Gillingham tutor.

⁷⁵ 34 C.F.R. § 300.116(d), 20 U.S.C. § 1412(a)(5)(A)), 34 C.F.R. § 300.114(a)(2).

⁷⁶ FOF 25 & 26.

⁷⁷ FOF 23.

⁷⁸ FOF 25 & 26.

⁷⁹ FOF 23.

⁸⁰ FOF 23.

⁸¹ 34 C.F.R. § 300.324(a)(2)(i).

⁸² FOF 23, & 25.

██████ with rare severe incidents (overall 86% appropriate behaviors).⁸³ Additionally, the behaviors demonstrated by the Student consisted mostly of passive refusals,⁸⁴ and the District failed to offer any new interventions to support a placement that offered the Student greater inclusion despite the recommendations of staff and independent evaluators, thereby violating the LRE requirement of the IDEA.⁸⁵

- 35) The party challenging the IEP (here, the Parent) bears the burden of persuasion.⁸⁶ The Parent met this burden with evidence of an overly restricted placement since the ██████ program provided the Student with the opposite of what the Student required namely an approach that reflected calm and a quiet place to reflect and regulate.⁸⁷ The District provided insufficient programming when the District minimized or reduced related services minutes for the Student without adequate data, (e.g., speech),⁸⁸ and reduced the Student's OT/social work minutes.⁸⁹ The District submitted insufficient IEP documents (failure to identify IEP team participants and leaving an Additional Notes page blank).⁹⁰ The District failed to demonstrate that the IEP team considered the private IEPs;⁹¹ and failed to follow recommendations from staff regarding increased general education inclusion⁹²
- 36) The preponderance of evidence established that the District's increasing placement in the ██████ program was inappropriate and a violation of the LRE requirement, as behaviors stemmed from the restrictive environment, severe incidents were rare, and greater inclusion with supports was viable. The District acknowledged the Student failed to meet the criteria for eligibility as a student with an emotional or behavioral disability.⁹³ When the Student demonstrated any refusals/shutdowns, the behavior occurred mostly in the ██████ program⁹⁴ the Student rarely demonstrated any severe behaviors (86% appropriate overall).⁹⁵The

⁸³ FOF 24.

⁸⁴ FOF 23.

⁸⁵ FOF 25 & 26.

⁸⁶ *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49 (2005); 105 ILCS 5/14-8.02a(g-50).

⁸⁷ FOF 23 & 25.

⁸⁸ FOF 21.

⁸⁹ FOF 21.

⁹⁰ Id.

⁹¹ Id.

⁹² FOF 25.

⁹³ FOF 16.

⁹⁴ FOF 18, 19, 20 & 23.

⁹⁵ FOF 24.

Student eloped two times over the course of one school year,⁹⁶ and experienced success in the regular education classrooms.⁹⁷ Both staff and the Student's private evaluators supported increases in regular education placement with appropriate aids and services.⁹⁸

- 37) The Parent has proven the District denied the Student a FAPE in the LRE on both certified issues. The evidence in support of a finding of the District's denial of a FAPE in the LRE is cumulative due to the overly restrictive ED/BD placement without justification;⁹⁹ the fact that the Student demonstrated and professional staff recognized that the most viable LRE included placement in a co-taught classroom with appropriate supports and services, yet the District failed to try the placement with the Student, and rather increased the restrictiveness of the Student's placement.¹⁰⁰ The Parent established that these actions of the District produced harm to the Student and limited the Student's access to the Student's non-disabled peers and limited the Student's progress.¹⁰¹ The Parent established that the denial of a FAPE in the LRE included the school year 2023-2024 to the present.¹⁰²
- 38) Under the IDEA, a disabled child is entitled to a free appropriate public education tailored to the student's special needs.¹⁰³ Courts have determined that hearing officers have the authority to grant such relief the hearing officer deems appropriate.¹⁰⁴ The Seventh Circuit has recognized that, under this language, district courts have the discretion to grant compensatory education as a remedy for past violations of the IDEA.¹⁰⁵ "Compensatory awards should aim to place disabled children in the same position they would have occupied but for the school district's violations of IDEA."¹⁰⁶
- 39) The Individuals with Disabilities Education Act (IDEA) empowers due process hearing officers and courts to grant "appropriate" relief for violations of a student's right to a Free

⁹⁶ Id.

⁹⁷ FOF 16, 18, 19, & 20.

⁹⁸ FOF 25 & 26.

⁹⁹ FOF 14-26.

¹⁰⁰ FOF 24 & 25.

¹⁰¹ FOF 14, 15, 20, 21, 23, 24, & 25.

¹⁰² FOF 14-26.

¹⁰³ 20 U.S.C. 1400 et. seq.

¹⁰⁴ *Educ. of Oak Park & River Forest High Sch. Dist. 200 v. Todd A.*, 79 F.3d 654, 656 (7th Cir. 1996) (quoting 20 U.S.C.).

¹⁰⁵ Id. ("[T]his authorization encompasses the full range of equitable remedies ... necessary to cure a violation"). *Evanston Cnty. Consol. Sch. Dist. No. 65 v. Michael M.* 356 F.3d 798, 803 (7th Cir. 2004).

¹⁰⁶ *Petrina W. v. City of Chicago Public School District*, 2009 WL 5066651 (N.D. 111. Dec. 10, 2009) citing *Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 365 U.S. App. D.C. 234 (D.C. Cir. 2005).

Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE). This authority stems from the statute's emphasis on equitable remedies to address educational harms. While the U.S. Supreme Court has not directly ruled on compensatory education as a specific remedy, it has established broad equitable powers that underpin hearing officers' ability to fashion such relief, including compensatory services to remedy FAPE denials involving LRE failures (e.g., inappropriate placements that restrict access to general education peers). One foundational case held that courts (and by extension, hearing officers in administrative proceedings) have broad discretionary authority to grant equitable relief under IDEA to ensure the Act's purposes are met. Specifically, it authorized reimbursement for private placements as a remedy for FAPE violations when a school's proposed IEP is inadequate, considering equitable factors like parental cooperation. This ruling laid the groundwork for compensatory education as an equitable tool to "place the child in the position they would have been in" absent the violation, including for LRE issues where improper segregation denied educational benefits.¹⁰⁷ The Court expanded remedial authority by ruling that parents can receive reimbursement for private school tuition even if the private placement does not meet state standards or IDEA's formal FAPE definition, as long as it addresses the FAPE denial. This reinforces hearing officers' flexibility in crafting remedies for FAPE/LRE violations, prioritizing substantive educational restoration over strict procedural compliance.¹⁰⁸ The Court further affirmed broad equitable remedies, holding that reimbursement is available even if the student never received special education services in public school beforehand. This case emphasizes that hearing officers can order compensatory-like relief (e.g., funding for alternative placements or services) to rectify past FAPE deprivations, including those stemming from LRE violations like failure to provide inclusion supports.¹⁰⁹ The U.S. Court of Appeals for the Seventh Circuit addressed the broad equitable authority of hearing officers and courts to award compensatory education for denials of a (FAPE), including those involving the (LRE). While the circuit has not developed the doctrine as extensively as some others (e.g., the Third or D.C. Circuits with their emphasis on individualized, non-mechanical awards), it aligns with the Supreme Court's

¹⁰⁷ *Burlington School Committee v. Department of Education*, 471 U.S. 359 (1985).

¹⁰⁸ *Florence County School District Four v. Carter*, 510 U.S. 7 (1993).

¹⁰⁹ *Forest Grove School District v. T.A.*, 557 U.S. 230 (2009).

Burlington framework by recognizing compensatory services as an established equitable remedy to cure past violations.

- 40) The leading Seventh Circuit precedent on compensatory remedies under IDEA reveals the court explicitly held that IDEA's remedial provision¹¹⁰ grants broad authority to "order compensatory education if necessary to cure a violation." The 7th Circuit described compensatory services as a "well-established" equitable remedy, rooted in the statute's allowance for courts (and, by extension, hearing officers under § 1415) to grant "such relief as the court determines is appropriate." The case involved a dispute over occupational therapy services, where the court affirmed an award of compensatory occupational therapy despite a close question on the underlying FAPE denial, emphasizing flexibility in fashioning relief to restore the student to the position they would have occupied absent the violation.¹¹¹
- 41) The 7th Circuit reiterated that compensatory services are available only upon a finding of a denial of FAPE. It upheld an administrative award of compensatory occupational therapy services, noting that procedural flaws can deny FAPE if they result in lost educational opportunity, and affirmed the discretion of hearing officers in ordering tailored compensatory relief.¹¹²
- 42) The Seventh Circuit has not imposed strict requirements like "gross violations" (as in some early Third Circuit cases) or rejected "hour-for-hour" calculations explicitly (as in *Reid* in the D.C. Circuit). Instead, it focuses on whether the violation caused substantive harm warranting equitable cure, consistent with Burlington's broad discretion. Hearing officers in the Seventh Circuit thus possess coextensive authority with courts to fashion individualized compensatory awards (e.g., additional therapy, tutoring, or extended services) for FAPE/LRE denials, without rigid formulas. Thus, this hearing officer determined that the Parent's requested relief as detailed in the Parent's closing argument constitutes an appropriate plan of compensatory relief to "place the child in the position they would have been in."

¹¹⁰ 20 U.S.C. § 1415(i)(2)(C)(iii)

¹¹¹ *Board of Education of Oak Park & River Forest High School District 200 v. Illinois State Board of Education (Todd A.)*, 79 F.3d 654 (7th Cir. 1996).

¹¹² *Evanston Community Consolidated School District No. 65 v. Michael M.*, 356 F.3d 798 (7th Cir. 2004).

43) Thus, based upon the findings of fact, the position of the parties, and the applicable statutory and case law, the hearing officer rules the Parent met the Parent's burden of persuasion and rules wholly for the Parent.

FINAL ORDER

44) Based upon the foregoing Findings of Fact, Conclusions of Law, and the certified issues, the IHO orders the District to provide the Parent's requested relief as identified in the filed DPCN that included:

- a. Convene the IEP team and develop an IEP that provides the Student with an appropriate placement in the general education program with the Student's academic peers by providing the Student with the appropriate accommodations and modifications that include an independent FBA and BIP in order to enable the Student to make appropriate progress in the LRE;
- b. Provide the Student with compensatory education that enables the Student to function at the appropriate level but for the District's failure to provide the Student with a FAPE by funding academic tutoring with the Dyslexia Area Network for the 2025-26 and 2026-27 school years, 200 hours of tutoring in both math and reading from Sylvan, ESY for the 2025-26 school year.

45) Consistent with the US Supreme Court and the 7th Circuit's guidance, and in order to fashion relief necessary to restore the student to the position the Student would have occupied absent the District's identified violations and consistent with the 7th Circuit's guidance that established that hearing officers' have the authority to award prospective or compensatory services for FAPE shortcomings, the IHO further orders the following relief as requested in the Parent's closing argument:

- A. The District shall fund 200 hours of structured literacy tutoring (e.g., Orton-Gillingham or equivalent, reading/writing focus) and 200 hours of math tutoring (Parent may choose the service provider from illustrative brands like Dyslexia Area Network or Sylvan equivalents);
- B. Provide the Student with Extended School Year (ESY) services for the summer of 2026;

- C. Reimburse the Parent for documented private expenses directly tied to educational losses (e.g., prior tutoring, evaluations, travel to and from services), submitted with invoices.

46). Within 30 calendar days of the start of the District’s second semester, or February 5, 2026, the District shall convene an IEP team meeting to develop a revised IEP that includes:

- A. Educational placement for the Student in co-taught general education classes to the maximum extent appropriate. At the outset, the IEP should reflect placement in math, PE, recess (if recess is provided for all students), and science. Integration into additional general education classes occurs as the Student demonstrates readiness.
- B. Educational placement that also provides access to a special education resource room as determined by the IEP team;
- C. Provide the Student with a full-time one-to-one paraprofessional for support that at a minimum assists the Student with prompting, regulation, and transitions;
- D. Fashion appropriate accommodations/modifications that at a minimum includes a quiet space for de-escalation, support for sensory integration needs, and structured literacy interventions that the IEP team may identify and develop for the Student;
- E. Restore related services that include the provision of 30 minutes per week of one-to-one speech-language pathology for pragmatic language and literacy, 30 minutes per week of one-to-one occupational therapy for sensory regulation and documented handwriting deficits, and 30 minutes per week of one-to-one social work services, plus 60 minutes per week of group social work services to address the Student’s documented emotional needs.
- F. By February 19, 2026, 45 days after the start of the second semester, the District shall fund an independent FBA and provide the Student with a resulting BIP completed by a qualified external board-certified behavior analyst (BCBA), whose selection the Parent must agree to.

47). By February 19, 2026, the District must reimburse the Parent for the following, provided the Parent submits either proof of payment or paid invoices:

- i. DAN \$800
- ii. Ivy \$475

- iii. Reimbursement for Kersh tutoring \$1140
- iv. Easter Seals evaluation \$203.57
- v. Mileage to DAN (2024) \$383.24 (11 miles x 52 x .67)
- vi. Mileage to Kersh (2025) \$105.84 (10.8 miles x 14 x .7)
- vii. Mileage to HHI (2025) \$177.10 (1 ox23x.7)

48) Going forward, or as prospective relief to ensure the District restores the student to the position the Student would have occupied absent the District’s identified violations and based upon the finding of a denial of a FAPE in the LRE for 2.5 school years, the IHO further orders the District to:

- A. Reimburse the Parent within 45 days of receiving invoices; W-9 and 1099 forms are not required. Also note that compensatory services shall be consumable until June 30, 2028, regardless of the Student’s then school enrollment to ensure the Student receives appropriate compensation for the two plus years denial of FAPE in the LRE.
- B. As further prospective relief, the District must provide the Student with 100 weeks of compensatory education,¹¹³. The 100 weeks is the equivalent of 2.5 years lost instruction.

Prospective compensatory education includes:

- i. Fund an IEE completed by a licensed social worker selected by the Parent and fund the evaluator’s time to attend an IEP team to review the results of the IEE not to exceed \$2,000.
- ii. Fund an IEE completed by a licensed OTR selected by the Parent and fund the evaluator’s time to attend an IEP team to review the results of the IEE not to exceed \$2,000.
- iii. Fund an IEE completed by a licensed SLP selected by the Parent and fund the evaluator’s time to attend an IEP team to review the results of the IEE not to exceed \$2,000.
- iv. Twice weekly one-to-one tutoring provided by the Sylvan Learning for one hour session each week in reading/writing;¹¹⁴

¹¹³ This relief may end sooner if determined by the provider that the Student has remediated losses incurred from the denial of a FAPE in the LRE prior to the conclusion of 100 weeks of tutoring. This note also applies to ordered relief listed in iv., v., and vi., respectively.

¹¹⁴ The IHO notes that any tutoring ordered may take place before or after school or on the weekends if available and the times are selected by the Parent.

- v. Twice weekly one-to-one tutoring provided by the Sylvan Learning for one hour session each week in math;¹¹⁵
- vi. Five times weekly for one hour each time at the rate of \$60 per hour for Kersh tutoring for Orton Gillingham instruction for dyslexia treatment and structured literacy learning;
- vii. Reimbursement at the then current IRS mileage rate for transportation to and from the Student's home to the Sylvan Learning and Kersch facilities.

NOTICE OF RIGHT TO REQUEST CLARIFICATION

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

NOTICE OF RIGHT TO APPEAL

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

This Final Determination and Order is issued on December 23, 2025.


Impartial Hearing Officer

¹¹⁵ Id.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the IHO sent a true and correct copy of the Impartial Hearing Officer's Final Determination and Order via PDF file and electronic mail only and directed to:

Mr. Randall Slade
Franco Maroney Beutik
[REDACTED]

And

Mr. Charles P. Fox, Esq.
Ms. Julie Welsh, Esq.
Law Offices of Charles P. Fox
[REDACTED]
[REDACTED]

And

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

On December 24, 2025

/s/D. Michael Risen
D. MICHAEL RISEN, PH.D.
[REDACTED]
[REDACTED]

APPENDIX A – PERSONALLY, IDENTIFIABLE INFORMATION

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

ISBE Case No. 2026-DP-0025

Students Name	██████████
Date of Birth	██████████
Attending School	██████████ Middle School
Parent’s Name	██████████
██████████ Psychologist	██████████ ██████████
██████████ Soday Teacher	██████████ ██████████
██████████ Social Worker	██████████ ██████████
██████████ OTR	██████████ ██████████
██████████ Behavior Consultant	██████████ ██████████
██████████ Speech Language Pathologist	██████████ ██████████
██████████ Math Teacher	██████████ ██████████
Private BCBA	██████████ ██████████
Director of Special Education	Dr. ██████████ ██████████
██████████ teacher	██████████ ██████████
District OTA	██████████ ██████████
District Assistant Principal	██████████ ██████████
Former Assistant District Director of Special Education	██████████ ██████████
Orton Gillingham Private Tutor	██████████ ██████████