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OFFICE OF DISPUTE RESOLUTION

DEPARTMENT OF THE ATTORNEY GENERAL

STATE OF HAWAI'I

In the Matter of STUDENT, by and through
PARENT,¹

Petitioner(s),

vs.

DEPARTMENT OF EDUCATION, STATE
OF HAWAI'I,

Respondents.

DOE-SY2526-002

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND DECISION

Due Process Hearing:

November 3, 4, 7, 10, 13, and 17, 2025

Hearings Officer: Chastity T. Imamura

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

I. INTRODUCTION

Petitioners bring forth this case under the Individuals with Disabilities Education Act (hereinafter "IDEA") to allege numerous procedural and substantive violations in Student's Individualized Education Programs (hereinafter "IEPs") between the 2023-2024, 2024-2025, and 2025-2026 school years while Student attended both Former Home School and Current Home School.

¹ Personal identifiable information is contained in the Legend.

II. JURISDICTION

This proceeding was invoked in accordance with the IDEA, as amended in 2004, codified at 20 U.S.C. §1400, *et seq.*; the federal regulations implementing the IDEA, 34 C.F.R. §300.1, *et seq.*; and the Hawai‘i Administrative Rules (hereinafter “H.A.R.”) §8-60-1, *et seq.*

III. ISSUES PRESENTED

Petitioners assert sixty-six issues² under six categories in their Request for IDEA Impartial Due Process Hearing (hereinafter “Complaint”) to be addressed at the Hearing:

Category 1 - The DOE Failed to Comply with Reevaluation and Eligibility Requirements Leading Up to and Including the DOE's 3/27/24 Eligibility Determination

- 1) Whether the DOE failed to conduct or conduct in a timely manner reevaluations or assessments prior to the DOE's 3/27/24 Eligibility Determination when presented with new circumstances warranting a reevaluation or assessment. 34 CFR § 300.303 and HAR§ 8-60- 35.
- 2) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to follow the evaluation procedures in 34 CFR § 300.304 and HAR§ 8-60-36 that should have been followed after being presented with circumstances that warranted the reevaluation.
- 3) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to follow the additional requirements for evaluations and reevaluations found in 34 CFR §300.305 and HAR § 8-60-37 and necessarily any subsequent requirement in regard to the reevaluation process.
- 4) Whether the DOE, in regard to the DOE's eventual 3/27/24 Eligibility Determination, failed to conduct or conduct in a timely manner reevaluations or assessments when presented with circumstances warranting a reevaluation or assessment. 34 CFR § 300.303 and HAR § 8-60-35.³

² At the prehearing conference, a long discussion was held regarding the style in which Petitioners had written their complaint and the lack of factual support in any of the issues. Petitioners were given the option to rewrite their complaint to make clear what specific issue they had regarding the legal citations they provided in each of the sixty-six issues. Petitioners declined to do so and requested that the issues remain as written in the complaint.

³ After discussion at the prehearing conference, Petitioners and Respondents agreed that Petitioners' category 1, subsections 1 and 4 are duplicative, subsections 2 and 5 are duplicative,

- 5) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to follow the evaluation procedures in 34 CFR § 300.304 and HAR § 8-60-36.
- 6) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to follow the additional requirements for evaluations and reevaluations found in 34 CFR § 300.305 and HAR§ 8-60-37.
- 7) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to follow the requirements for determining eligibility found in 34 CFR § 300.306 and HAR § 8-60-38.
- 8) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to follow the eligibility requirements in 34 CFR § 300.8 and HAR§ 8-60-39 for all possible categories of eligibility.
- 9) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to have the necessary additional group members for purposes of determining a specific learning disability. HAR § 8-60-40 and 34 CFR §300.308.
- 10) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to follow the requirements related to determining the existence of a specific learning disability. HAR§ 8-60-41 and 34 CFR § 300.309.
- 11) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to complete the reevaluation in a timely manner. HAR §§ 8-60-33 and 34 CFR § 300.301; HAR § 8-60-35 and 34 CFR § 300.303; HAR § 8-60-41 and 34 CFR 300.309.
- 12) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to provide the specific documentation for its eligibility determination. HAR §§ 8- 60-43 and 34 CFR § 300.311.
- 13) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to ensure that data was documented, considered, and provided to the parent, along with whether the parent's ability to be fully informed and to participate in the IDEA process concerning the student's educational program was undermined and the IDEA violated. 34 CFR § 300.306(a)(2) & (c)(1) and HAR§ 8-60-38(a)(2) & (c)(1); 34 CFR § 300.311(a)(2) & (7) and HAR § 8-60-43(a)(2) & (7); and 34 CFR § 300.501(a) and HAR § 8-60-56(a).
- 14) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to provide for the parent to be able to constructively participate in meetings concerning

and subsections 3 and 6 are duplicative; however, Petitioners have requested that it be kept in the prehearing order; therefore it is being kept in this list at Petitioners' request.

the student. 34 CFR § 300.501(a) and HAR§ 8-60-56(b); 34 CFR §300.322 and HAR § 8-60-46; 34 CFR § 300.501(a) and HAR § 8-60-56(a); 34 CFR §300.502 and HAR§ 8-60-57(c)(1); 34 CFR § 300.321 and HAR§ 8-60-45(a)(5); 34 CFR § 300.6 and HAR § 8-60-38.

15) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to provide the parent with prior written notices of department action ("PWN") or failed to provide PWNs that met the requirements of the law. 34 CFR § 300.503 and HAR§ 8-60-58.

16) Whether the DOE in regard to the DOE's 3/27/24 Eligibility Determination failed to consolidate reevaluation and other IEP Team meetings for the student to allow it to address the needs of the student. 34 CFR § 300.324(a)(5) and HAR § 8-60-48(a)(5).

Category 2 - The DOE Failed to Permit an Independent Educational Evaluation at Parent Expense by Not Permitting an Observation on Campus During the 2023-24 School Year

17) Whether the DOE failed to permit at parent expense an Independent Educational Evaluation during the 2023-24 school year when it did not permit in a timely manner an observation on campus of the student. 34 CFR § 300.502 and HAR§ 8-60-57(c)(1).

18) Whether the DOE failed to issue a Prior Written Notice of Department regarding its decision not to permit an observation on campus during the 2023-24 school year.

Category 3 - The DOE Failed to Treat the Student Comparably to the Student's Nondisabled Peers in Terms of the Timely Accessibility of Records Concerning The student's Educational Progress During the 2023-24 School Year

19) Whether the DOE treated the student and parent comparably to the student's nondisabled peers and their parents during the 2023-24 school year in terms of the timely accessibility of records concerning the student's educational progress, which would include the student's educational progress in relation to the student's IEP goals and objectives.

Category 4-The DOE Failed to Properly Develop the 07/18/2024 IEP

20) Whether the DOE in developing the 07/18/2024 IEP failed to adequately consider "[t]he strengths of the child;" "[t]he concerns of the parents for enhancing the education of their child;" "[t]he results of the initial or most recent evaluation of the child;" "and [t]he academic, developmental, and functional needs of the child." 34 CFR § 300.324(a)(1) and HAR § 8-60-48(a)(1).

21) Whether the DOE in developing the 07/18/2024 IEP failed to adequately consider the

special factors in 34 CFR § 300.324(a)(2) and HAR§ 8-60-48(a)(2), including, but not limited to, whether the student's behavior impedes the student's learning, communication needs, and the need for assistive technology.

22) Whether the DOE in developing the 07/18/2024 IEP failed to have the necessary attendees required by the law in relation to the meetings. 34 CFR § 300.321 and HAR § 8-60-45.

23) Whether the DOE failed to provide for parent to be able to constructively participate in the meetings related to developing the 07/18/2024 IEP. 34 CFR §300.501 and HAR § 8-60-56.

Category 5-The 07/18/2024 IEP Offered by the DOE Was Not Substantively Appropriate

24) Whether the 07/18/2024 IEP offered by the DOE lacks an adequate "statement of present levels of academic achievement and functional performance." 34 CFR § 300.320(a)(1) and HAR§ 8-60-44(a)(1).

25) Whether the 07/18/2024 IEP offered by the DOE lacks an adequate "statement of measurable annual goals, including academic and functional goals and a description of short-term objectives or benchmarks." 34 CFR § 300.320(a)(2) and HAR§ 8-60-44(a)(2).

26) Whether the 07/18/2024 IEP offered by the DOE lacks an adequate description of how progress would be measured and when periodic reports on progress toward the annual goals will be provided." 34 CFR § 300.320(a)(3) and HAR§ 8-60-44(a)(3).

27) Whether the 07/18/2024 IEP offered by the DOE lacks an adequate statement of special education, related services, supplementary aids and services, and program modification and supports. 34 CFR § 300.320(a)(4) and HAR§ 8-60-44(a)(4).

28) Whether the 07/18/2024 IEP offered by the DOE lacks an adequate explanation of the extent to which Student will not participate with nondisabled students. 34 CFR § 300.320(a)(5) and HAR § 8-60-44(a)(5).

29) Whether the 07/18/2024 IEP offered by the DOE lacks an adequate statement of the appropriate accommodations to measure academic achievement and functional performance on statewide assessments. 34 CFR § 300.320(a)(6) and HAR § 8-60-44(a)(6).

30) Whether the 07/18/2024 IEP offered by the DOE lacks an adequate statement of the "anticipated frequency, location, and duration of those services and modifications." 34 CFR § 300.320(a)(7) and HAR§ 8-60-44(a)(7).

- 31) Whether the 07/18/2024 IEP offered by the DOE lacks an adequate "statement of transition service needs of the student." 34 CFR § 300.320(b) and HAR§ 8-60-44(b).
- 32) Whether the 07/18/2024 IEP offered by the DOE lacked extended school year services in conformance with the law. 34 CFR §300.106 and HAR§ 8-60-7.
- 33) Whether the DOE in regard to its 07/18/2024 IEP that it offered failed to have its placement decision "made by a group of persons, including the parents, and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options" in conformance with the least restrictive environment provisions of the law. 34 CFR § 300.116 and HAR§ 8-60-17.
- 34) Whether the 07/18/2024 IEP offered by the DOE was not "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Endrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 137 S. Ct. 988, 1001 (2017).
- 35) Whether the DOE as it relates to its 07/18/2024 IEP was not "able to offer a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of the student's circumstances." *Id.* at 1002.
- 36) Whether the DOE as it relates to its 07/18/2024 IEP failed to "ensure that a continuum of alternative placements [was] available to meet the needs of [Student] for special education and related services." 34 CFR § 300.115 and HAR§ 8-60-16.
- 37) Whether the DOE as it relates to its 07/18/2024 IEP failed to ensure that placement was made in compliance with 34 CFR § 300.116 and HAR§ 8-60-17.

Category 6 - The DOE Failed to Convene a Timely IEP Meeting at the Beginning of the 2024-25 School Year Despite the Parent's Request

- 38) Whether the DOE failed to convene an IEP meeting that the parent requested at the beginning of the 2024-25 school year.
- 39) Whether the DOE failed to issue a Prior Written Notice of Department Action when it did not agree to simply convene an IEP meeting and instead insisted that an SFT meeting must first be held.

Category 7 -The DOE Failed to Implement the 07/18/2024 IEP

- 40) Whether the DOE failed to implement the 07/18/2024 IEP, such as in regard to ensuring the provision of assistive technology, accommodations and modifications, the provision of special education, and the maintenance of data sheets supporting its IEP Progress Reports over the course of the reporting periods.

Category 8 - The DOE Failed to Afford Parent the "Opportunity to Inspect and Review All Education Records" During the 2024-25 School Year

- 41) Whether the DOE failed to afford the parent the "opportunity to inspect and review all education records" in a timely and complete manner in accordance with the law during the 2024-25 school year. 34 CFR § 300.501(a) and HAR § 8-60-56(a).

Category 9 - The DOE Failed to Permit an Independent Educational Evaluation at Parent Expense by Not Permitting an Observation on Campus During the 2024-25 School Year or Subsequently

- 42) Whether the DOE failed to permit at parent expense an Independent Educational Evaluation during the 2024-25 school year or subsequently when it did not permit in a timely manner an observation on campus of the student. 34 CFR § 300.502 and HAR§ 8-60-57(c)(1).
- 43) Whether the DOE failed to issue a Prior Written Notice of Department Action regarding its decision not to permit an observation on campus during the 2024- 25 school year or subsequently.

Category 10 - The DOE Failed to Treat the Student Comparably to the Student's Nondisabled Peers in Terms of the Timely Accessibility of Records Concerning The Student's Educational Progress During the 2024-25 School Year

- 44) Whether the DOE treated the student and the student's parent comparably to the student's nondisabled peers and their parents during the 2024-25 school year in terms of the timely accessibility of records concerning the student's educational progress, which would include the student's educational progress in relation to the student's IEP goals and objectives.

Category 11 - The DOE Failed to Properly Develop the 07/14/2025 IEP

- 45) Whether the DOE in developing the 07/14/2025 IEP failed to adequately consider "[t]he strengths of the child;" "[t]he concerns of the parents for enhancing the education of their child;" "[t]he results of the initial or most recent evaluation of the child;" "and [t]he academic, developmental, and functional needs of the child." 34 CFR § 300.324(a)(1) and HAR§ 8-60-48(a)(1).
- 46) Whether the DOE in developing the 07/14/2025 IEP failed to adequately consider the special factors in 34 CFR § 300.324(a)(2) and HAR § 8-60-48(a)(2}, including, but not limited to, whether the student's behavior impedes the student's learning, communication needs, and the need for assistive technology.
- 47) Whether the DOE in developing the 07/14/2025 IEP failed to have the necessary

attendees required by the law in relation to the meetings. 34 CFR § 300.321 and HAR§ 8-60-45.

- 48) Whether the DOE failed to provide for parent to be able to constructively participate in the meetings related to developing the 07/14/2025 IEP. 34 CFR §300.501 and HAR§ 8-60-56.

Category 12-The 07/14/2025 IEP Offered by the DOE Was Not Substantively Appropriate

- 49) Whether the 07/14/2025 IEP offered by the DOE lacks an adequate "statement of present levels of academic achievement and functional performance." 34 CFR § 300.320(a)(1) and HAR§ 8-60-44(a)(1).
- 50) Whether the 07/14/2025 IEP offered by the DOE lacks an adequate "statement of measurable annual goals, including academic and functional goals and a description of short-term objectives or benchmarks." 34 CFR § 300.320(a)(2) and HAR§ 8-60-44(a)(2).
- 51) Whether the 07/14/2025 IEP offered by the DOE lacks an adequate description of how progress would be measured and when periodic reports on progress toward the annual goals will be provided." 34 CFR § 300.320(a)(3) and HAR§ 8-60- 44(a)(3).
- 52) Whether the 07/14/2025 IEP offered by the DOE lacks an adequate statement of special education, related services, supplementary aids and services, and program modification and supports. 34 CFR § 300.320(a)(4) and HAR§ 8-60-44(a)(4).
- 53) Whether the 07/14/2025 IEP offered by the DOE lacks an adequate explanation of the extent to which Student will not participate with nondisabled students. 34 CFR § 300.320(a)(5) and HAR § 8-60-44(a)(5).
- 54) Whether the 07/14/2025 IEP offered by the DOE lacks an adequate statement of the appropriate accommodations to measure academic achievement and functional performance on statewide assessments. 34 CFR § 300.320(a)(6) and HAR § 8-60-44(a)(6).
- 55) Whether the 07/14/2025 IEP offered by the DOE lacks an adequate statement of the "anticipated frequency, location, and duration of those services and modifications." 34 CFR § 300.320(a)(7) and HAR§ 8-60-44(a)(7).
- 56) Whether the 07/14/2025 IEP offered by the DOE lacks an adequate "statement of transition service needs of the student." 34 CFR § 300.320(b) and HAR§ 8-60-44(b).
- 57) Whether the 07/14/2025 IEP offered by the DOE lacked extended school year services in conformance with the law. 34 CFR §300.106 and HAR § 8-60-7.
- 58) Whether the DOE in regard to its 07/14/2025 IEP that it offered failed to have its

placement decision "made by a group of persons, including the parents, and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options" in conformance with the least restrictive environment provisions of the law. 34 CFR § 300.116 and HAR§ 8-60-17.

- 59) Whether the 07/14/2025 IEP offered by the DOE was not "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Endrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 137 S. Ct. 988, 1001 (2017).
- 60) Whether the DOE as it relates to its 07/14/2025 IEP was not "able to offer a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of the student's circumstances." *Id.* at 1002.
- 61) Whether the DOE as it relates to its 07/14/2025 IEP failed to "ensure that a continuum of alternative placements [was] available to meet the needs of [Student] for special education and related services." 34 CFR § 300.115 and HAR§ 8-60-16.
- 62) Whether the DOE as it relates to its 07/14/2025 IEP failed to ensure that placement was made in compliance with 34 CFR § 300.116 and HAR § 8-60-17.

Category 13 - The DOE Failed to Comply with Reevaluation Requirements in the 2024-25 School Year and 2025 Summer

- 63) Whether the DOE failed to conduct or conduct in a timely manner reevaluations or assessments during the 2024-25 school year and 2025 summer when presented with circumstances warranting a reevaluation or assessment. 34 CFR § 300.303 and HAR§ 8-60-35.
- 64) Whether the DOE during the 2024-25 school year and 2025 summer failed to follow the evaluation procedures in 34 CFR § 300.304 and HAR§ 8-60-36 that should have been followed when presented with circumstances that warranted the reevaluation.
- 65) Whether the DOE during the 2024-25 school year and 2025 summer failed to follow the additional requirements for evaluations and reevaluations found in 34 CFR§ 300.305 and HAR§ 8-60-37.

Category 14 -The DOE's Violations of the Law Collectively Constitute a Denial of a Free Appropriate Public Education

- 66) Whether the prior issues collectively, as opposed to individually, constitute a denial of a free appropriate public education as they resulted in "(I) imped[ing] the child's right to a free appropriate public education; (II) significantly imped[ing] the parents' opportunity to participate in the decision making process regarding the provision of a free appropriate public education to the parents' child; or (III) caus[ing] a deprivation of educational benefits." 20 USC§ 1415(f)(3)(E)(ii).

Petitioners also requested the following remedies if a denial of FAPE is found:

1. The conducting of a reevaluation that includes, but is not limited to, assessments in the areas of achievement, adaptive skills, cognitive ability, social/emotional/behavior, and speech/language/communication.
2. Permission to allow a private ABA provider to observe Student on campus.
3. The development of a new IEP.
4. Unless directly contradicted by any new neuropsychological evaluation or comparable assessment obtained by the DOE or obtained by Parent, the findings and recommendations of the neuropsychological evaluation dated November 18, 2023, will be incorporated into the new IEP.
5. This would include, but not be limited to, "[r]eceive[ing] explicit, structured instruction to remediate the student's reading skills," [r]eceiving writing instruction that focuses on writing mechanics, grammar, semantics and syntax," counseling for anxiety, "social skills to address social communication difficulties," and occupational therapy for fine motor weakness.
6. Incorporation of the results of the assessment instruments detailed in the neuropsychological evaluation dated November 18, 2023, into the new IEP, not directly rebutted by a DOE obtained neuropsychological evaluation.
7. This would include the Wechsler Intelligence Scale for Children, Fifth Edition (WISC-V), Delis-Kaplan Executive Function System (D-KEFS), Wechsler Individual Achievement Test- Fourth Edition (WIAT-4), Gray Oral Reading Test Fifth Edition (GORT-5), Test of Word Reading Efficiency - Second Edition (TOWRE-2), Wide Range Assessment of Memory and Learning (WRAML 3), Rey Complex Figure Test (RCFT), and Multidimensional Anxiety Scale for Children (MASC 2).
8. Incorporation of the findings and recommendations related to Student's diagnosis in the Hospital and other documentation provided to the Department of Education, such as the provision of ABA services and goals to address adaptive behavior areas (i.e. communication skills, daily living skills, and social skills and relationships) in the new annual IEP.
9. Incorporation of speech language pathology reports issued by providers in terms of their findings and recommendations issued not directly rebutted by a comparable current speech language report obtained by the DOE.
10. Incorporation of occupational therapy reports issued by providers in terms of their findings and recommendations issued not directly rebutted by a comparable occupational therapy report obtained by the DOE.
11. Incorporation of physical therapy reports issued by providers in terms of their findings and recommendations issued not directly rebutted by a comparable physical therapy reports obtained by the DOE.
12. Incorporation of vocational therapy reports issued by providers in terms of their findings and recommendations not directly rebutted by a comparable report obtained by the DOE.
13. The DOE will include in the PLAAFP for the new annual IEP not only the standard score but the percentile rank for any standardized test results that it presents.
14. For purposes of the PLAAFP of the new IEP, the DOE will go through the subject

- matter standards for Student, such as Hawaii Common Core for English Language Arts and indicate for purposes of the PLAAFP which of these standards Student does not meet, so as to permit an objective third party familiar with these standards to know how Student is performing relative to these standards. For example, the IEP dated July 25, 2022, for purposes of the Student's grade at Former Home School indicated, "Student is able to organize Student's thoughts and write a simple paragraph. (4.W.1, 4.W.2, 4.W.3)," which corresponded to a lower grade.
15. IEP goals and objectives will be written in such a manner that objective data can be collected (e.g. If a goal references a certain amount of trials will be conducted and that mastery will correspond to a certain amount of trials being successful, then data will be collected as to how many trials were conducted during a reporting period and how many were successful).
 16. Comparable to how data regarding educational progress is made available on a frequent basis on a computer program as to how Student is doing in the regular education classes, the DOE will make available information on how Student is doing in terms of Student's goals and objectives on a frequent basis.
 17. The successful mastery of a goal or objective should correspond to satisfaction of a specific standard at a specific grade level so as to permit one to know how many grade levels Student has progressed and whether the gap between where Student is performing at according to the PLAAFP and the end of the IEP year is being closed (e.g. If Student is three years below a written expression standard, the gap would not be significantly closed if mastery of a goal or objective is simply one grade level standard, as by the time of the next annual IEP he would be a year older and Student would be two years below the written expression standard for Student's subsequent grade in school). Likewise, indicating "progressing" at the end of annual time period for the IEP should require the teacher to indicate what grade level standard Student is performing at, so as to facilitate the writing of the PLAAFP for the next IEP.
 18. Special education minutes in any class in which written expression is a significant part of the class will be authorized, as opposed to limiting special education minutes solely to Student's English Language Arts class.
 19. Special education instruction will be provided by "a person assigned by the department who is highly qualified under state standards to provide the specially designed instruction that meets the definition of special education." HAR§ 8-60-2.
 20. "Order[] the [DOE] to comply with procedural requirements under sections 8-60-56 through 8-60-81." HAR§ 8-60-67(a)(3).
 21. Such further and other legal and equitable relief as the Hearings Officer may deem just and necessary under the circumstances.

IV. BACKGROUND

On July 23, 2025, the Department of Education, State of Hawai'i (hereinafter "Respondents" or "DOE") received a Request for IDEA Impartial Due Process Hearing

(hereinafter “Complaint”) under the Hawai‘i Administrative Rules Title 8, Chapter 60, in accordance with the Individuals with Disabilities Education Act, from Student, by and through Parent (hereinafter “Petitioners”). Respondents submitted a response to Petitioners’ Complaint on August 4, 2025.

On August 25, 2025, a prehearing conference was held with Hearings Officer Chastity T. Imamura, Parent, on behalf Petitioners, and Bradford K. Chun, Esq. (hereinafter “Mr. Chun”) on behalf of Respondents. During the prehearing conference, this Hearings Officer also discussed with Parent that the issues are unclear and that Parent may want to resubmit a Request for IDEA Impartial Due Process Hearing to clarify the issues that Petitioners want resolved in the case. Respondents did not object to Petitioners submitting an amended request, but Petitioners elected to keep their Complaint as submitted. The due process hearing (hereinafter “Hearing”) was scheduled for November 3, 4, 6, 7, 10, 13, 17, and 18, 2025.

The parties stipulated to the Hearing being conducted via video conferencing pursuant to Hawai‘i Revised Statutes Section 91-9(c). Both parties agreed to the following: a court reporter would participate in the video conference hearing, swear in the witnesses, and transcribe the proceedings; all witnesses were required to participate in the Hearing using both the video and audio functions of the Zoom platform; and witnesses and parties would ensure confidentiality of the proceedings by participating in a private setting.

Prior to the Hearing, the parties agreed that parties could question the witnesses during their scheduled times since some of Petitioners’ witnesses were DOE employees, so that the witnesses would not need to return to testify again during Respondents’ case-in-chief. Respondents’ reserved their right to call some witnesses during their case-in-chief even if they had already testified.

At a status conference on October 13, 2025, Petitioners noted that the first witness that they intended to call was Parent. This Hearings Officer had provided Parent with three options for providing their testimony: 1) a question and answer format, 2) a narrative testimony, and 3) a written declaration. Petitioners chose to proceed via a written declaration that was to be turned in by October 29, 2025, to allow Mr. Chun time to review the declaration and prepare cross examination. Parent submitted Parent's Declaration on October 27, 2025, which was marked as Petitioner's Exhibit 67 and received as evidence in this case. The Hearing began on November 3, 2025 with Mr. Chun's cross examination of Parent, which continued to November 4, 2025. Present at the Hearing were Parent, on behalf of Petitioners; District Educational Specialist and Mr. Chun on behalf of Respondents; this Hearings Officer; and the assigned court reporter. At the end of the cross examination of Parent, Petitioners indicated that they only had one witness remaining for their case-in-chief, but the witness was unavailable until November 13, 2025. Respondents were given the option of starting their case prior to the last Petitioners' witness being available, and asked to have until November 7, 2025 to proceed if they elected to do so. Respondents did elect to proceed with their witnesses on November 7, 2025, and they called Special Education Teacher (hereinafter "SPED") and Current Behavior Health Specialist (hereinafter "Current BHS") to testify. The Hearing continued to November 10, 2025, where Respondents called Current Care Coordinator (hereinafter "Current CC") and Current Vice Principal (hereinafter "Current VP") to testify. On November 13, 2025, Petitioners called their remaining witness, Former Vice Principal (hereinafter "Former VP") and rested their case-in-chief. On November 17, 2025, Respondents called Former Care Coordinator (hereinafter "Former CC") and Former Behavioral Health Specialist (hereinafter "Former BHS")

Petitioners did not have any rebuttal witnesses, so the hearing concluded on November 17, 2025.

Each party submitted their exhibits for the Hearing by the disclosure deadline of October 27, 2025. The exhibits presented by both parties were discussed on the record at the Hearing and this Hearings Officer excluded several exhibits requested by Petitioners and Respondents based on relevance to the issues in this case.⁴ As discussed with counsel during the hearing, the federal statutes, administrative rules, case law, and other legal authority may be cited by counsel in the briefs and were also not received as evidence in this case. If the parties were unable to find a specific citation for a letter or case, they were allowed to attach a copy of the case to their written brief.

On November 21, 2025, a List of Exhibits Received at Due Process Hearing was filed with the final list of exhibits submitted and received by the parties for consideration in this Decision.

Petitioners' exhibits that were received and considered as part of this Decision are as follows: Exhibit P2, pages 00349-0378; Exhibit P3, pages 00380-00403; Exhibit P8, page 01710; Exhibit P11, pages 02193-02545; Exhibit P12, pages 02546-03733; Exhibit P13, pages 03734-04047; Exhibit P14, pages 04048-05089; Exhibit P15, pages 05090-05409; Exhibit P16, pages 05410-05556; Exhibit P18, pages 05619-05763; Exhibit P19, pages 05764-05919; Exhibit P20, pages 05920-05949; Exhibit P24, page 06294; Exhibit P26, pages 06303-06309; Exhibit P27, pages 06310-06322; Exhibit P28, pages 06323-06331; Exhibit P29, pages 06332-06345; Exhibit P30, pages 06346-06363; Exhibit P32, pages 06402-06443; Exhibit P35, pages 06466-06628;

⁴ See November 21, 2025 List of Exhibits Received at Hearing for the full list of exhibits that were received into evidence.

Exhibit P37, pages 06824-06999; Exhibit P38, pages 07000-07003; Exhibit P39, pages 07004-07021; Exhibit P40, pages 07022-07057; Exhibit P41, pages 07058-07337; Exhibit P42, pages 07338-07464; Exhibit P43, pages 07465-07550; Exhibit P44, pages 07551-07571; Exhibit P45, pages 07572-07732; Exhibit P46, pages 07733-07862; Exhibit P47, pages 07863-07924; Exhibit P48, pages 07925-07934; Exhibit P49, pages 07935-08019; Exhibit P51, pages 08173-09492; Exhibit P52, pages 09493-09505; Exhibit P53, pages 09506-10015; Exhibit P54, pages 10016-10408; Exhibit P55, pages 10409-10710; Exhibit P56, pages 10711-12679; Exhibit P57, pages 12680-12891; Exhibit P58, pages 12892-12896; Exhibit P59, pages 12897-12905; Exhibit P60, page 12906; Exhibit P61, pages 12907-13128; Exhibit P62, pages 13129-14575; Exhibit P64, pages 14576-14578; Exhibit P66, pages 15069-15071; Exhibit P67, pages 15072-15221.

Respondents' exhibits that were received and considered as part of this Decision are as follows: Exhibits 1-2, pages 0001-0012; Exhibits 8-9, pages 0054-0059; Exhibits 21-495, pages 0109-03482; Exhibits 497-499, pages 3527-3591; Exhibit 501, pages 3598-3602; Exhibit 503-504, pages 3605-3610.

Both parties wanted the opportunity to submit written closing briefs regarding the legal issues to this Hearings Officer for review. The parties requested to provide a written closing brief with the use of the transcripts due to the length of the proceeding as well as the length of time between witness testimony. The Respondents submitted a request for extension of the decision deadline to allow for the preparation of transcripts, closing written briefs, and for this Hearings Officer to have sufficient time to review the extensive number of exhibits⁵ and transcripts in preparation for the decision. Respondents' request was granted, and the decision deadline was extended from November 20, 2025 to January 4, 2026. Based on the extension

⁵ The total number of exhibits received in the Hearing exceeded fifteen thousand pages.

request, the deadline by which the briefs were to be submitted was Wednesday, December 24, 2025. Both parties timely submitted their closing briefs on that date.

Having reviewed and considered the evidence and arguments presented, together with the entire record of this proceeding, the undersigned Hearings Officer renders the following findings of fact, conclusions of law and decision.⁶

V. FINDINGS OF FACT

1. Student is currently [REDACTED] years old and is currently in the [REDACTED] grade at Current Home School (hereinafter “Current School”). Student has been attending Current School since the 2024-2025 school year.
2. Student has been diagnosed with [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. Testimony of Parent, P57, p.15073.

⁶ This Hearings Officer notes that while the entire record, including exhibits and transcripts of the witness testimony was reviewed in preparing this Decision, only the testimony and exhibits that were relevant to the issues in this case are included in this Decision. Specifically, due to the length of time that had passed and the number of communications, meetings, and documents that were exchanged between the parties, many of the witnesses could not remember many specific details independently from the documents themselves, so this Hearings Officer relied primarily upon the documents that had been submitted by the parties. *See generally* Testimony of Parent, Transcript of Proceedings, Volumes 1-2 (hereinafter referred to as “Tr.V1-V2”); Testimony of Former VP, Tr.V5; *see also e.g.*, Testimony of Current CC, Transcript of Proceedings, Volume 4, page 462, line 24, through page 463, line 18 (hereinafter referenced as “Tr.V4, 462:24-463:18”); Testimony of Current VP, Tr.V4, 513:5-516:5, 526:24-527:21; Testimony of Former VP, Tr.V5, 549:5-555:16; Testimony of Former CC, Tr.V6, 716:5-8. Additionally, many documents that were included in the materials received as exhibits in this case included duplicate copies of the same documents with different page numbers. For efficiency, only one set of page numbers are listed in referencing the specific document.

3. In November 2022, a psychological evaluation was completed with Student by a psychologist [REDACTED]. The psychological evaluation included several assessment tools with both Student and Parents, and a review of Student's previous assessments, educational records, and IEPs. P19, p.05864-05881.
4. The psychological assessment determined that Student had some cognitive and academic struggles that could be managed with supports, such as extended time to perform timed tasks or solve problems, and increased focused and support on writing and reading. The assessment also found that Student struggled with fine motor skills and social communication, which indicated a [REDACTED]. P19, p.05866.
5. The psychological assessment made several recommendations that were either included or consistent with supports noted in Student's IEP. These recommendations included explicit, structured interventions for Student's reading skills; writing instruction that focuses on writing mechanics; the use of graphic organizers; extended time for completion of assignments; text-to-speech, speech-to-text assistance; spell check for written assignments; written copies of materials that are to be copied down from the classroom board; modification of assignments to allow alternative assessments of content, such as oral presentations, multiple choice, or short answer questions; preferential seating; breaking down assignments into smaller parts; and provide cuing and redirection when necessary. P19, p.05866-05867.
6. The psychological evaluator noted that Student did not meet the criteria for [REDACTED], but noted some traits that were consistent with such a diagnosis. P19, p.05866.

7. Student received the [REDACTED] diagnosis on April [REDACTED] 2023 [REDACTED]
[REDACTED] P19, p.05882-05893.
8. [REDACTED]
[REDACTED]
[REDACTED]⁷ P19, p.05882-05893.
9. A consult with a board-certified behavior analyst (hereinafter “BCBA”) was also done through Student’s medical plan on May 10, 2023. P19, p.05894-05899.
10. Student receives applied behavioral analysis (hereinafter “ABA”) services through Student’s hospital and medical insurance. P19, p.05900-05918.
11. Student received an ABA assessment and treatment plan through a private company in June 2023. The ABA treatment plan for Student focused on Student’s communication (expressive, receptive, and pragmatic), self-help and daily living skills, reduction of problem behavior [REDACTED], and family education. P19, p.05900-05918.
12. In December 2024, a follow up assessment was done by the private ABA company to reevaluate Student’s goals and objectives for ABA treatment. The assessment given in December 2024 was done with input solely from Parent. Evaluation of Student’s previous goals and objectives from the June 2024 plan demonstrated that Student had met and/or mastered over half of Student’s ABA goals and objectives by December 2024. P57, p.12797-12826.

⁷ This Hearings Officer notes that while the examiner summarized the results of the [REDACTED], from which Student’s diagnosis was made, the actual scoring/test results were not included in the evidence presented at the Hearing. Additionally, it is notable that Student’s diagnosis was made based on a ninety-minute session with the examiner, with another possible thirty minutes for extended developmental testing. P19, p.05886-05893.

13. Student had routinely expressed to the private ABA providers that Student was overwhelmed by the number of weekly commitments that were on Student's schedule. This concern was also expressed by Student to Student's teachers, in addition to Student expressing feelings of concern about meeting Parent's expectations. Testimony of BHS, Tr.V3, 372:15-373:16; P57, p.12798, 12803, P17, p.05590-05993.
14. In September and October 2023, observations were done by a BCBA for any maladaptive behaviors of Student in the DOE school setting. R61, p.0314-0315.
15. The BCBA did not observe any maladaptive behaviors in the observations in September and October 2023. The BCBA did observe Student engage in [REDACTED] on a couple of occasions, but Student was able to disengage with prompting. The BCBA also observed that Student engaged in appropriate social interactions with peers at lunch during one of the observations. R61, p.0314-0315.
16. Student's January 2024 evaluation summary report indicated that Student had strengths in the areas of reading comprehension for literature and informational texts; mathematics; social skills;⁸ behavior;⁹; and fine motor.¹⁰ R8, p.0054-0058.
17. A speech pathology evaluation was conducted with Student in February 2024, where the examiner reported that Student had strengths in making and responding to greetings, making requests for clarification, help, or permission; maintaining eye contact; showing a

⁸ This includes being able initiate and respond to social and academic conversations during classes, greeting adults and peers, and sustaining a back-and-forth conversation with both peers and adults

⁹ This includes being on-task, willingness to participate in class discussions or activities, being engaged in learning and taking ownership of Student's work, and not demonstrating any inappropriate, inattentive, or off-task behaviors in class that impede learning

¹⁰ This includes Student's organizational skills, being able to retrieve and/or locate all appropriate materials for class, and using a computer to complete any written assignments.

sense of humor during communication; and maintaining appropriate physical distance.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] P40, p.07041-07046;

R69, p.0355-0359.

18. Student underwent a different speech-language assessment in July 2024 through Student's private insurance. This speech-language assessment was based on two tools, one of which was completed entirely through Parent input rather than an observation, assessment, or input from Student. The other scale was based on Student's test assessment scores; however the results of the other scale was questionable or incomplete, at best based on the examiner's own notes in the report.¹¹ The examiner also noted that Student's scores on the test, particularly the scores that showed decline in Student's abilities, may have been affected by Student's unfamiliarity with the examiner and setting. P57, p.12792-12796.

¹¹ The examiner wrote "Note that the TILLS normative data report actual percentile ranks and not standardized Normal Curve Equivalents, so these scores may look unusual. That is, TILLS percentiles represent the actual percentage of the students in the normative sample who scored lower than the student in question. Because there are developmental skills, the data often do not conform to a normal bell curve, so relationships of percentile ranks to standard scores will vary. It is also possible for a student to earn a zero-percentile rank on the TILLS if no students in the normative sample scored lower than the student with a language/literacy disorder." The examiner further noted that while Student's scores can best be categorized as low, "[h]owever, without the information provided by the oral language subtests, it is not possible to place [Student's] performance in one of the quadrants without further assessment."

19. It does not appear that the examiner reviewed Student's IEPs, sought or received information from Student's teachers regarding Student's abilities at school. P57, p.12792-12796.
20. The speech-language assessment did determine that Student was in need of private speech-language therapy to address overall deficits in spoken and written language. P57, p.12794-12796.
21. An academic assessment was conducted by the DOE with Student in July 2025. Student scored in the average range for written language composite and written expression. Student scored below average in spelling and very low in writing fluency. The examiner noted that for the writing fluency section of the test, Student appeared very distracted by math problems that were visible on the reverse side of the page, which may have affected Student's score on the time subtest that was given. P57, p.12856-12861.
22. A speech-language assessment was conducted by the DOE with Student in August 2025. The speech-language assessment collected information from Student's teachers, all of whom noted that Student did not have significant needs or trouble with speech or communication in class. Student needed occasional reminders to think of the correct word to say, getting to the point, answering questions quickly, having trouble expressing thoughts, expanding or providing alternate explanations to get someone to understand, or getting frustrated when people did not understand. Teachers who observed difficulties for Student in class noted that supports that were provided to Student managed Student's difficulties. P57, p.12747-12752.

23. In August 2025, Student scored in the “at or above benchmark” for grade level peers on a diagnostic test given to [REDACTED] grade students in the areas of English/Language Arts (hereinafter “ELA”) and math. P57, p.12827-12833.
24. Student previously had difficulties with behaviors, especially being distracted and off-task during class, but since attending Current School, Student’s teachers have not observed Student having any behavioral concerns or difficulties. *See* Testimony of SPED, Tr.V3, 325:18-21; 337:20-340:8; Testimony of Current CC, Tr.V4, 424:23-428:12.
25. Student is at or near grade-level based on common core standards for writing and Student earned an [REDACTED] grade in the course based on proficiency with grade-level standards when Student was provided the appropriate accommodations under Student’s IEPs. Testimony of SPED, Tr.V3, 315:12-316:3.
26. Based on Student’s classwork and assignments, Student does not demonstrate any needs in reading. Student’s teachers collected a portfolio of Student’s writing assignments, which demonstrated that Student improved greatly in using pre-writing strategies to organize Student’s writing; including textual evidence and supporting details to develop ideas; attention to detail in capitalization and punctuation; organizing ideas logically; and formulating conclusions to each paragraph. Testimony of SPED, Tr.V3, 327:12-337:19
27. While Student’s handwriting is still deficient, Student’s teachers are able to read the content of what Student writes in handwritten documents. Testimony of SPED, Tr.V3, 321:14-325:17; Testimony of Current CC, Tr.V3, 466:1-367:2.

Procedural history leading up to IEP-07/18/2024

28. In July 2022, Parent requested a reevaluation to obtain additional assessments for Student, despite a reevaluation having been done in 2021. *See* P62, p.13149-13151.

29. In September through December 2022, Former School held several eligibility meetings to determine Student's continued eligibility for special education and related services under the IDEA. Student was found eligible under the category of [REDACTED] based on Student's difficulties with [REDACTED] in December 2022. P14, p.04690-04691.
30. Subsequent to finding Student eligible for IDEA services, the IEP team began meeting in December 2022 to develop a new IEP for Student based on the reevaluation results. The IEP was not completed at the December meeting, so additional meetings were scheduled¹² for January, February, April, and May 2023. P11, p.02320-02367, P12, p.03471-03472, 03474-03476.
31. Prior written notices (hereinafter "PWN") regarding the IEP meetings that were held were issued for the continued meetings that were held. P14, p.04702-04719.
32. In February 2023, after an IEP meeting, Parent sent a nine-page letter to Principal of Former School regarding concerns Parent had with the IEP that was being developed for Student. Parent resent this letter to the IEP team again in May 2023, between continued IEP meetings to develop Student's IEP for the 2023-2024 school year. P12, p.03507-03518.
33. After Student's [REDACTED] diagnosis on April [REDACTED] 2023, Parent requested a functional behavior assessment (hereinafter "FBA") and ABA services for Student based on the new diagnosis. P11, p.02443-02444.

¹² The meetings were not scheduled all at once; the additional meetings were scheduled after the IEP team had not completed the IEP at the previously scheduled meeting.

34. Former VP communicated with Parent that the team wanted to complete the current IEP that they had been developing before discussing whether another assessment should be done for Student. P12, p.03474-03476.
35. The IEP for Student was completed on May █, 2023 (hereinafter “IEP-05/█/2023”) and the IEP-05/█/2023 offer was made to Parent, who rejected the team’s offer and informed Former School that Student would be placed at a private school and Parent would be seeking reimbursement of Student’s private school expenses. P12, p.03688-03693.
36. The IEP, prior written notice regarding the final IEP, dated May 30, 2023 (hereinafter “PWN-5/30/2023”), and Student’s fourth quarter progress report for the 2022-2023 school year was sent to Parent on May 30, 2023. P12, p.03694-03733.
37. On July 24, 2023, Petitioners submitted a request for impartial IDEA due process hearing (hereinafter “2023 Due Process Complaint”). The matter went to hearing in December 2023 and February 2024 and a final decision on the matter was issued on April 22, 2024. P62, p.13134-13136, 13162-13184.
38. In August 2023, a student focused team (hereinafter “SFT”) meeting was held to discuss Parent’s request for an FBA based on Student’s April 2023 █ diagnosis. Testimony of Former CC, Tr.V6, 715:16-718:23; R21, p.0109-0110.
39. The team determined that they did not have enough information to determine whether an FBA was necessary, so they decided to have an observation of Student done by a BCBA to see if Student had any maladaptive behaviors for which an FBA would be appropriate to assess. Testimony of Former CC, Tr.V6, 718:24-720:12.

40. In September and October 2023, the DOE retained a BCBA from a private company to conduct an observation of Student at school on two occasions. Reports were generated for both observations. R63, p.0314-0315.
41. In November 2023, the SFT met and reviewed the information about the observations with the BCBA, who was present at the meeting. The BCBA indicated that no FBA was necessary based on the observations done in September and October 2023, but that the team needed to review and discuss other sources of data before making a final decision. R23, p.0111-0112.
42. Before the next SFT meeting, Former BHS reviewed the concerns that were noted in a private assessment provided by Parent to the team. Former BHS created a chart of the concern listed in the report and Student's teacher's comments, as well as Former BHS's comments regarding whether Student demonstrated any of the behaviors of concern in the report. Based on Former BHS's report, none of Student's teachers nor BHS observed any of the concerns about Student in the school setting. Testimony of Former CC, Tr.V6, 730:3-732:2; Testimony of Former BHS, Tr.V6, 841:8-846:21; R491, p. 3327-3330; R492, p.3331-3340.
43. Another SFT meeting was held on January 25, 2024, regarding Parent's request for an FBA for Student. At the January 2024 meeting, the team considered the previous assessments conducted with Student by both the DOE and private examiners and determined that no additional assessments were necessary for the team to determine Student's eligibility for IDEA special education and related services. R26, p.0119-0121.
44. In February 2024, the SFT held an eligibility meeting to review Student's eligibility category based on the April 2023 [REDACTED] diagnosis and the review of the observations by

BCBA, and other sources of information discussed at the January 2024 meeting. The SFT determined that Student remained eligible for special education and related services under the IDEA under the category of [REDACTED] (hereinafter “[REDACTED]”).

Based on a request by Parent, however, the SFT continued the eligibility meeting to March 2024 to further discuss other possible eligibility categories. R29, p.0126-0128.

45. After the February 2024 SFT meeting, Parent provided Former School with a February 21, 2024 speech-language assessment that had been conducted with Student by a private provider. P40, p.7041-7046; R158, p.0923-0928.
46. In March 2024, Student’s team considered other eligibility categories for Student, such as [REDACTED] and [REDACTED]. The team reviewed the assessments provided by private providers along with comments regarding areas of concern by Student’s teachers and determined that Student did not meet the criteria for the other proposed categories. The SFT team, besides Parent, determined that [REDACTED] was the most appropriate category under which Student continued to be eligible for special education and related services. An evaluation summary report was provided to the team that explained the basis for eligibility determination. R8, p.0054-0058; R30, p.0129-0132.
47. A form was submitted to Parent to provide Parent’s indication of agreement or disagreement with the eligibility determination and, if disagreement, then provide the basis for the disagreement with the determination. R178, p.0991-0992.
48. Parent did not complete the form; however, Parent indicated that Parent did not agree that the DOE had complied with the law concerning the evaluation and eligibility process. Parent did not provide any basis for the disagreement. R178, p.0991-0992.

49. In April 2024, Student had completed a diagnostic reading report, which indicated that Student had an overall score comparable to an average [REDACTED] grader (one grade level below Student's chronological age), and had strengths in phonological awareness, phonics, high frequency words, and comprehension of literature. Student had difficulty with vocabulary and comprehension of informational text that lowered Student's overall score. R181, p.0998-1009.
50. Student's progress reports in April 2024 and June 2024 provided detailed narrative explanations as to Student's progress on IEP goals and objectives. Student had demonstrated progress in some goals and mastery of others. Student's teachers also provided Parent with a daily communication log that kept Parent apprised of Student's daily school events. Testimony of Former CC, Tr.V6, 738:6-20; R182, p.10100-1017; R252, p.1440-1446; R481, p.2994-3100.
51. An updated observation report by Former BHS was provided to Parent on April 5, 2024. The observation included reports of Student engaging in a non-academic social interaction with a peer; Student returning to working on an assignment without prompting; Student self-advocating and expressing a need for a break from a teacher; and Student working on a writing assignment diligently during a special education session. Former BHS had also been sending "weekly check in" data to Parent every week throughout the 2023-2024 school year to keep Parent apprised of Student's performance in school. Testimony of Former CC, Tr.V6, 737:13-25; R184, p.1023-1024; R480, p.2964-2993.

52. In the spring semester of the 2023-2024 school year, Former School reached out to schedule IEP meetings with Parent. R185, p.1026; R188, p.1029; R193, p.1053; R195-196, p.1067-1068.
53. On April 24, 2024, Parent renewed a request for Student's private ABA providers to observe Student at school. R203, p.1082.
54. On April 26, 2024, Parent submitted a State Written Complaint to the DOE's Monitoring and Compliance Complaints Management Program, alleging violations by the DOE in the evaluation process that began with Petitioners' request for a reevaluation in 2023 and culminated in the eligibility determination in March 2024. R204, p.1083-1098.
55. In preparation for the upcoming IEP meeting, Parent was provided with Student's work samples, a draft IEP, and other documents that were requested by Parent. *See e.g.*, R211-R212, p.1109-1135; R222, p.1158-1173; R223, p.1174-1190.
56. On May 21, 2024, Former School informed Parent that the DOE is considering the request to have Student's private ABA providers observe Student on campus but that the DOE would need consent to communicate with the providers to understand the purpose of the observation. Former School did not respond to Parent's request before the 2023-2024 school year ended. R237, p.1223-1225.
57. The IEP team listened to Parent's concerns about the draft IEP and made appropriate changes in accordance with Parent's request on the draft IEP prior to the next meeting. Testimony of Former CC; Tr.V6, P42, p.07514-07516, 07521-07539; R240, p.1230-1247.

58. On May 28, 2024, Parent sent a letter to Former VP indicating the issues/concerns that Parent had with the most recent draft IEP that was sent to Parent in anticipation of the next IEP meeting. P , p.07540-07549; R241, p.1248-1257.
59. IEP meetings to develop Student's IEP for the 2024-2025 school year were held on May █ 2024, May █ 2024, July █ 2024, and July █ 2024. R38, p.0150-0170; *see also* R31-39, p.0133-0174.
60. During the IEP meetings, the IEP team considered Student's reevaluation, private assessments provided by Parent, observations of behaviors of Student at school, and the professional evaluation of Student's in-school assignments, quizzes, projects, and tests by Student's teachers, including progress made on Student's previous IEP goals and objectives. *See* R.33-34, p.0137-0143; R36, p.0148-0149; R39, p.0171-0174.
61. A written IEP for Student was completed on July 18, 2024 (hereinafter "IEP-07/18/2024") and PWNs dated May █ 2024, June █ 2024, July █ 2024, and July █ 2024 was issued regarding what took place at the meetings. R33-34, p.0137-0143; R36, p.0146-0147; R38, p.0150-0170; R39, p.0171-0174.
62. Personnel from Current School were invited to observe the IEP meetings for Student but because they had no information on Student's abilities, strengths, and needs, they were not made a part of the IEP team for Student for the development of the IEP-07/█/2024 and they left the only meeting to which they were invited. Testimony of BHS, Tr.V3, 361:381:8-382:3, 383:7-20.

Student's IEP-07/█/2024

63. Student's IEP-07/█/2024 contained a thorough summary of Student's present levels of academic achievement and functional performance (hereinafter "PLAAFPs"). The

PLAAFPs included recitations of percentile and grade-level standard comparison scores for the assessments that had been given to Student in the different academic areas. R38, p.0151-0152.

64. The PLAAFPs also included narrative details regarding Student's strengths in all academic areas, and Student's needs in the area of writing. R38, p.0151-0155.
65. The needs section for Student's writing included common core standards and samples of work that Student had done relative to the common core standard. R38, p.0152-0155.
66. The PLAAFPs also included summaries of Student's strengths in the areas of speech/language, behavior, and fine motor. Student's needs in the area of fine motor was also included. R38, p.0155-0157.
67. A transition plan was included in Student's IEP-07/█/2024 based on an interview and aptitude test conducted with Student. █ had not been completed in the IEP-07/█/2024, but Student had not █, and no evidence demonstrated a need for the IEP team to consider it for Student at a █. R38, p.0157-0158.
68. The IEP-07/█/2024 contained common core standards and baseline information for Student related to Student's needs in the area of writing. The IEP-07/█/2025 contained measurable goals and objectives to be graded by teachers that would allow Student to make progress. R38, p.0159-0163.
69. Student's objectives were based on work given in the general education classes as part of the standard ELA curriculum, such as writing essays that fulfill a length and content requirement, using appropriate transition phrases in a multi-paragraph writing

assignment, and writing an argumentative paragraph that meets the given requirements. R38, p.0159-0163, 0165.

70. The IEP-07/█/2024 provided Student with an occupational therapy consult five times per quarter to facilitate the use of assistive technology and to supplement Student's fine and visual motor skills development. R38, p.0164.
71. Student was provided ninety minutes of special education services to address Student's needs in writing and to work on Student's goals and objectives. This ninety minutes was to allow for time during the general education classes where Student would receive additional help with writing assignments to make progress toward the goals and objectives in the IEP-07/█/2024.
72. Student's IEP-07/█/2024 provided Student with supplementary aids and supports to assist Student in completing writing assignments, such as the use of graphic organizers, extended time to complete assignments, the use of spell check and a word processor to complete written assignments; as well as having alternative methods to assess Student's knowledge of the content of the work assigned and being provided with written or digital assistance in copying materials and completing hardcopy forms. R38, p.0164-0165.
73. Student's LRE in the IEP-07/█/2024 was the general education inclusion setting for ELA and in the general education setting for all other classes. The LRE was appropriate given the academic and non-academic benefits for Student to be amongst peers and also receive additional assistance to address Student's difficulties in writing in an inclusion classroom for ELA. R38, p.0166.
74. During the reevaluation, eligibility, and IEP development meetings, Parent had ample opportunities to participate and provide input through email communications, suggestions

on revisions of draft IEPs, discussions and questions during meetings, being provided with weekly data from Student's former special education teacher and Former BHS, and requests for records and data to support the teams' decisions. *See generally* Testimony of Former CC, Tr.V6; Testimony of Former BHS, Tr.V6; P67.

School Year 2024-2025

75. Student participated in Current School's general education summer school program, where Student enrolled in [REDACTED]. Student earned an [REDACTED] grade for summer school. R294-R298, p.1693-1706.
76. Prior to the start of the 2024-2025 school year, Current CC coordinated a meeting with Student's teachers to review the IEP-07/[REDACTED]/2024 to clarify the goals and objectives, and accommodations that were to be provided to Student and ensure that the teachers were able to implement the IEP in their classrooms. Testimony of Current CC, Tr.V4, 398:4-21, 399:16-400:24.
77. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] P57, p.12834.
78. Since Student was in the general education classes, Student's assignments, quizzes, and test scores were available to Student in a program called Infinite Campus, through which Student could gauge Student's performance at any time during the school year. General education students had access to this same program. Testimony of Current VP, Tr.V4, 530:20-532:18; P67, p.15118.

79. Student also received mid-quarter progress reports and end-of-quarter report cards related to Student's grades on regular education assignments, quizzes, and tests that had been given. Student also was required to get and received grade-checks for participation in extra-curricular activities. These mid-quarter progress reports, end-of-quarter report cards, and grade-checks were available to general education students. P67, p.15118, p.15126.
80. Student participated in [REDACTED] and [REDACTED] during the 2024-2025 school year. Testimony of BHS, Tr.V3, 378:1-7.
81. SPED provided Student's special education services in Student's ELA inclusion classroom. SPED would provide special education to Student by ensuring that Student's supplementary aids and supports were provided to Student and to provide additional assistance to Student for assignments. This assistance included links to writing samples from which Student could model Student's writing; modeling how to set a purpose for reading and highlighting textual evidence accordingly. Occasionally SPED would work one-on-one with Student to give feedback on Student's writing, introduce ways to incorporate transitional phrases, and use the computer-generated prompts for spelling and grammatical errors. Testimony of SPED, Tr.V3, 286:5-289:10.
82. SPED also assisted Student with the use of graphic organizers in writing, which involved different graphic diagrams to organize information to focus Student on writing answers that respond appropriately to the grading rubric. Testimony of SPED, Tr.V3, 290:13-292:18.
83. Specific accommodations that were provided to Student in Student's ELA class by SPED included the use of graphic organizers, sentence starters, and checklists to support

writing; extended time of an additional class period for writing tasks; the use of a word processor and spell-check; providing copies of a slides that were going to be used in class; chunking of assignments into manageable steps; and the occupational therapy consult. Testimony of SPED, Tr.V3, 319:11-321:13.

84. There were occasions when Student's teachers reported that Student did not want to use the assistive technology available to Student in class because it appeared that Student did not want to stand out in the class. On the occasions when this occurred, Student's teachers reported that Student's choice not to use the accommodation or support did not affect Student's performance on the assignment. Testimony of Current CC, Tr.V4, 404:15-405:18.
85. Student was assigned the same work and assignments that the general education students in the inclusion classroom were assigned. The assignments were not modified in any way relating to the content and expectations in the assignment. Student would occasionally get additional assignments to target deficiencies, such as capitalization and punctuation usage. Testimony of SPED, Tr.V3, 352:24-14; Testimony of Current CC, Tr.V4, 401:4-12.
86. On June 29, 2024, Parent sent a letter to Current School Principal to inquire as to how Student's IEP-07/█/2024 would be implemented at Current School. Parent resent the letter on August 14, 2024. R299, p.1707-1718; R303, p.1731-1745.
87. Current VP responded to Parent's June 29, 2024 letter regarding the implementation of Student's IEP-07/█/2024. R304, p.1746-1750.

88. In August 2024, Student had taken a diagnostic reading and math assessment that showed that Student scored at or above the grade-level benchmarks in both reading and math. R307, p.1777-1782.
89. On August 8, 2024, Parent submitted to the DOE the private speech-language assessment that was conducted with Student in July 2024. R300, p.1719-1725.
90. In August 2024, Parent requested that Student's private ABA provider be allowed to observe Student at school as part of a private IEE being initiated by Parent. Current School responded that the DOE needed consent to receive and release information, as well as the ability to communicate with the ABA provider to understand the purpose of the observation, assess whether the observer's presence would be disruptive to Student's and/or Student's class. P67, p.15117-15119.
91. The DOE later declined to permit an observation of Student on campus due to the stated purpose of observing for maladaptive behaviors of Student. Current School noted that no behaviors of concern for Student have been identified and the school did not want to risk disruption to the learning environment by an unnecessary observation of Student. P67, p.15121-15122.
92. The team for Student attempted to schedule a student focused team (hereinafter "SFT") and an IEP review meeting with Parent in September 2024 to review the speech-language report that Parent had provided to the DOE in August 2024. Parent requested that the team postpone the meeting until Parent completed additional records requests. R304, p.1746-1750; R320, p.1898-1905.

93. When Parent inquired about teacher notes and provision of assistive technology for Student, Current School notified Parent that data would be collected on the IEP goals and objectives throughout semester. R304, p.1746.
94. In September 2024, Parent requested an upgrade of the assistive technology program that Student was using for math, which was later provided by Current School. P67, p.49-15121, 15127.
95. In October 2024, January 2025, April 2025, and June 2025, Student's IEP progress report for IEP-07/18/2024 were provided to Parent. Student's IEP progress reports contained detailed information about what Student had been working on in class and how Student performed on the tasks assigned. By the end of the 2024-2025 school year, Student had demonstrated mastery in at least two of Student's IEP-07/18/2024 goals and objectives. P67, p.15125-15126, 15129; R327, p.1950-1958; R334, p.1966-1975; R375, p.2314-2327; R403, p.2388-2401.
96. Student's IEP progress reports were completed by SPED, who provided information for each assignment that Student was working on for a specific objective and how Student was progressing on that objective. *See* Testimony of SPED, Tr.V3, 293:17-314:8.
97. Student's report card grades were completed by Student's general education teachers for each subject.
98. Upon request by Parent, the records in Current School's possession that formed the basis of the progress reports were also provided to Parent. This included numerous work samples and grading rubrics that were provided to Student during the reporting periods. R339, p.1984-2047; R345, p.2053-2177; R378, p.2332; R404, p.2402-2403.

99. Parent made records requests from Current School on August [REDACTED] 2024; September [REDACTED] 2024; September [REDACTED] 2024; January [REDACTED] 2025; February [REDACTED] 2025; April [REDACTED] 2025; and May [REDACTED] 2025. *See* P67.
100. Current School responded to Parent's records requests on September [REDACTED] 2024; September [REDACTED] 2024; September [REDACTED] 2024; January [REDACTED] 2025; March [REDACTED] 2025; May [REDACTED] 2025, and May [REDACTED] and June [REDACTED] 2025. *See* P67.
101. In May 2025, Student took a statewide [REDACTED] assessment and received a score of [REDACTED] out of 100 points, which was considered a passing mark. Student's end of year [REDACTED] grade, which included the statewide assessment score, was a [REDACTED]. R286, p.2345; R390, p.2362; R490, p.3326.

Summer 2025

102. Student registered for general education summer school classes for the summer of 2025. Student enrolled in [REDACTED] for summer school. Student earned [REDACTED] grades in both classes. P67, p.15130; R447-448, p.2754-2755.
103. Student did not receive specially designed instruction for summer school in the summer of 2025, but Student was provided with the supplementary aids and supports listed in Student's IEP-07/[REDACTED]/2024. Testimony of BHS, Tr.V3, 378:13-381:7, Testimony of Current CC, Tr.V4, 456:5-457:8.
104. [REDACTED]
[REDACTED]
[REDACTED] P60, p.12906; P67, p.15144.

Procedural History leading up to IEP-07/[REDACTED]/2025

105. As of May 22, 2025, Current School attempted to schedule IEP meetings with Parent to develop Student's IEP for the 2025-2026 school year. Parent requested that the IEP meeting occur after Parent had received records that Parent believed was necessary to prepare for the IEP meeting. P67, p.15131; R383, p.2340.
106. On May 28, 2025, Parent requested another reevaluation of Student based on the fact that some of the DOE's assessments were nearly three years old. Parent recognized that Student had received various assessments in the same areas by private examiners that were more updated than the DOE's assessments, but still requested that the DOE conduct academic achievement, adaptive skills, cognitive, social/emotional/behavior, and speech-language assessments as part of another reevaluation of Student. P67, p.15134; R394, p.2370-2371.
107. On June 8, 2025, Parent again requested the DOE allow a private provider to observe Student on campus for an IEE during the summer school classes that Student was going to attend. The DOE declined Parent's request. P67, p.15135; R409, p.2413-2420.
108. On June 9, 2025, Current School declined Parent's request to have the private providers observe Student on campus for summer school because no behavioral concerns were reported for Student at Current School to warrant such an observation. R410, p.2421-2428.
109. Parent made records requests from Current School on June [REDACTED] 2025 for the records to support Student's grades in the report card for the 2024-2025 school year. R413, p.2468-2469.
110. On June 20, 2025, an agenda for the IEP meeting and a draft IEP for Student was sent to Parents prior to the start of the meeting. R414, p.2470-2489.

111. An IEP meeting was held on June 20, 2025 to develop an IEP for Student for the 2025-2026 school year. A continued IEP meeting was held on July 14, 2025. R425, p.2540-2541.
112. At the end of the June 20, 2025 meeting, the team scheduled an SFT meeting to address Parent's request for reevaluation from May 28, 2025. The SFT meeting was ultimately scheduled for July 1, 2025. R415, p.2490; R418, p.2526; R422, p.2532.
113. Current School responded to Parent's records requests on June [REDACTED] 2025 and July [REDACTED] 2025;
114. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] P67, p.15140-15141; R443, p.2715-2729.
115. The [REDACTED] determined that Student had deficits in interpersonal skills, [REDACTED] personal care, and self-direction. A plan for [REDACTED] was created for Student by [REDACTED] and Student was assigned a counselor to work with Student on the plan. P67, p.15141.
116. On July 1, 2025, the SFT meeting was held and the team determined that cognitive, academic for written expression, and speech-language assessments, as well as an observation of Student would be done as part of a reevaluation for Student. The SFT declined Parent's request to also conduct a behavioral assessment and an adaptive assessment, as well as having a private provider conduct an observation of Student. P67, p.15138-15140; R436, p.2646-2650.
117. A continued IEP meeting was held on July 14, 2025 to continue developing the IEP for Student for the 2025-2026 school year and IEP was completed on that date. P67, p.15142; R452, p.2763-2794.

118. On July 15, 2025, Parent provided a private speech language therapy plan of care from a private provider to the DOE to review for Student's upcoming IEP development. R451, p.2762.
119. The cognitive, academic, and speech-language assessments were conducted with Student in July and August 2025. P67, p.15143.

Student's IEP-07/█/2025

120. Student's IEP-07/█/2025 contained a thorough summary of Student's present levels of academic achievement and functional performance (hereinafter "PLAAFPs"), which included scaled scores, percentile ranks, and grade-level standards for the different academic areas. R48, p.0190-0198.
121. SPED provided information about Student's strengths and needs for reading and writing based on SPED's observations and work with Student in the inclusion ELA classroom. SPED also based the PLAAFPs on Student's abilities as demonstrated through classwork that Student had completed in the 2024-2025 school year. Testimony of SPED; Tr.V3, 326:23-337:19,
122. The PLAAFPs also included statements regarding assigned work and work samples that Student had completed as part of the regular education classwork from the 2024-2025 school year. R48, p.0190-0198.
123. The PLAAFPs also included a list of concerns raised by Parent through communication with the IEP team during the development of the IEP-07/14/2025. R48, p.0198.
124. The IEP-07/14/2025 included a transition planning section, that included assessments that Student had taken as part of the transition planning; █

█ The IEP-

07/ [REDACTED] /2025 also contained [REDACTED] goals and a plan for Student to achieve those goals, [REDACTED]

[REDACTED]

[REDACTED] Testimony of BHS, Tr.V4, 434:18-446:6; R48, p.0198-0201.

125. Student's goals and objectives included grade-level standards and baseline information for Student, as well as appropriate measurable goals and objectives for Student to continue to make progress in school. Much of the goals and objectives were drafted by SPED, who had the most experience and familiarity with Student's abilities in writing assignments. Testimony of SPED, Tr.V3, 341:5-351:11; R48, p.0202-0206.
126. Student's IEP-07/[REDACTED]/2025 did not provide Student with ESY services because the IEP team observed that Student did not experience any regression or extended recoupment time of Student's skills that were worked on in the IEP. Student additionally signed up for summer school general education courses for both the summer of 2024 and summer of 2025. Testimony of Current CC, Tr.V4, 452:20-455:14; R48, p.0207.
127. Student's IEP-07/[REDACTED]/2025 provided that Student would receive ninety-minutes of special education services per week to address Student's needs in ELA classes. The ninety-minutes per week is reasonable given the length of ELA classes per week and the additional assistance that would be given to Student to address Student's needs. R48, p.0207.
128. Student's IEP-07/[REDACTED]/2025 contained appropriate supplementary aids and supports to be provided to Student to address Student's writing needs and distractibility in class, which had been proven to be effective in the 2024-2025 school year. Student was also provided

an occupational therapy consult to monitor Student's progress in fine motor. R48, p.0207-0208.

129. Student's LRE in the IEP-07/14/2025 placed Student in the general education setting for all classes, including ELA, based on Student's demonstrated ability to gain academic and non-academic benefits from the general education setting.¹³
130. During the IEP development meeting process, Parent had ample opportunity to participate and provide input, including seeking further information and drafts of the IEP from the team; writing letters regarding concerns that Parent had; providing additional assessments and evaluations for the team to review as part of the process; and providing input on the format and content to certain parts of the IEP, specifically regarding the PLAAFPs section. *See* Testimony of Current CC, Tr.V3, 413:17-417:12, 420:17-425:11, 432:3-88, 448:2-449:19; *see generally* P67.

School year 2025-2026

131. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] P57, p.12834-12835.
132. On July [REDACTED] 2025, Parent made another request for educational records and records under FERPA, which included a request to provide documents beyond what was contained in the standard confidential file maintained by Current School. P67, p.15145.
133. Current School provided Parent with an opportunity to inspect the records on August [REDACTED]

¹³ This is based on Student's stellar academic grades in the 2024-2025 school year in the general education setting, as well as observations by Student's teachers that Student is able to socialize and interact with peers appropriately in the general education setting.

2025. P56, p.10745; P67, p.15145.

134. Parent also made records requests on August [REDACTED] 2025; August [REDACTED] 2025; September [REDACTED] 2025; *See* P67.

135. Current School responded to Parent's request for records on August [REDACTED] 2025 and September [REDACTED] 2025. *See* P67.

136. On September 10, 2025, Student's team met and reviewed the cognitive assessment and academic assessment conducted with Student in the summer of 2025. A further meeting was held on September 19, 2025, during which an observation report of Student during ELA class was reviewed. The meeting continued to September 26, 2025, October 24, 2025, and dates that were not included in the records for this Hearing. P67, p.15150-15152.

137. The current reevaluation and eligibility process was still ongoing as of the date of the Hearing. Testimony of Current CC, Tr.V4, 473:6-474:3.

VI. CONCLUSIONS OF LAW

Burden of Proof

As the party seeking relief in an administrative hearing challenging an IEP under IDEA, Petitioners have the burden of proving the allegations of a denial of FAPE. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62, 126 S.Ct. 528, 537, 163 L.Ed.2d 387 (2005); *Van Duyn ex rel. Van Duyn v. Baker Sch. Dist. 5J*, 502 F.3d 811, 819-820 (9th Cir. 2007). The IDEA's procedural safeguards have addressed the DOE's natural advantage in information and expertise in IDEA cases and, as such, do not require a burden-shifting provision in administrative proceedings for the school districts to prove that the IEPs designed for students are appropriate. *Schaffer*, 546 U.S. at 60-61, 126 S.Ct. at 536-537, 163 L.Ed.2d 387.

Similar to the previous due process hearing case filed by Petitioners against Respondents, Petitioners request that this Hearings Officer shift the burden of proving a violation of the IDEA from the moving party (i.e. Petitioners) to the Respondents by referencing a ‘burden of production,’ which is long-abandoned term of art that used to be associated with the burden of proof. *Schaffer*, 546 U.S. at 56, 126 S.Ct. at 533-534, 163 L.Ed.2d 387 (citing *Director, Office of Workers’ Compensation Programs v. Greenwich Collieries*, 512 U.S. 267, 274-276, 114 S.Ct. 2251, 2256-2257 (holding that the history of the term ‘burden of proof’ has been equated to the burden of persuasion and not the alternative concept of burden of production)). Petitioners argue the basis for shifting the burden of production onto Respondents is the alleged failures of the DOE to comply with the allegations in the complaint. Petitioners’ argument essentially, is that because Petitioners are alleging that the DOE failed to produce documents, consider IEEs, failure to permit an observation to allow an independent evaluation to occur, and the failure to provide cogent reasonings for their decisions, the burden of proof shifts to Respondents. This argument attempts to circumvent the well-established law that Petitioners carry the burden of proof. Further, even if there could be an argument that the burden of proof should be shifted to the DOE because of a clear failure to produce records to the petitioners in an IDEA case, this is clearly not the case here. Petitioners have provided over ten thousand pages of documents¹⁴ as part of this due process hearing, most of which contain what appear to be records from the DOE that were provided to Petitioners well before the due process hearing disclosure of exhibits deadline. This directly contradicts Petitioners’ argument that the DOE’s failure to produce documents to Petitioners requires a shift in the burden of proof for this case.

¹⁴ The ten thousand pages referenced here does NOT include the previous due process hearing decisions, transcripts, or Parent’s declaration in this case.

This Hearings Officer finds Petitioners' argument unpersuasive and holds Petitioners to the burden of proving that the Respondents denied Student a FAPE for the violations alleged herein.

IDEA framework

The purpose of the IDEA is to “ensure that all children with disabilities have available to them a free and appropriate public education that emphasizes special education and related services designed to meet their unique needs.” *Bd. of Educ. v. Rowley*, 458 U.S. 176, 179-91, 102 S.Ct. 3034, 3037-3043 (1982); *Hinson v. Merritt Educ. Ctr.*, 579 F.Supp.2d 89, 98 (D. D.C. 2008) (citing 20 U.S.C. §1400(d)(1)(A)). A FAPE includes both special education and related services. H.A.R. §8-60-2; 20 U.S.C. §1401(9); 34 C.F.R §300.34; 34 C.F.R §300.39.

Special education means “specially designed instruction to meet the unique needs of a child with a disability” and related services are the supportive services required to assist a student to benefit from their special education. *Id.* To provide a FAPE in compliance with the IDEA, the state educational agency receiving federal funds must “evaluate a student, determine whether that student is eligible for special education, and formulate and implement an IEP.” *Dep’t of Educ. of Hawai’i v. Leo W. by & through Veronica W.*, 226 F.Supp.3d 1081, 1093 (D. Hawai’i 2016).

The IEP is used as the “centerpiece of the statute’s education delivery system for disabled children.” *Honig v. Doe*, 484 U.S. 305, 311, 108 S.Ct. 592, 598, 98 L.Ed.2d 686 (1988). It is “a written statement for each child with a disability that is developed, reviewed, and revised” according to specific detailed procedures contained in the statute. H.A.R. §8-60-2; 20 U.S.C. §1401(14); 34 C.F.R §300.22. The IEP is a collaborative education plan created by parents and educators who carefully consider the child’s unique circumstances and needs. H.A.R. §8-60-45;

20 U.S.C. §1414; 34 C.F.R §300.321-300.322.

The DOE is not required to “maximize the potential” of each student; rather, the DOE is required to provide a “basic floor of opportunity” consisting of access to specialized instruction and related services which are individually designed to provide “some educational benefit.” *Rowley*, 458 U.S. at 200-201, 102 S.Ct. at 3047-3048. However, the United States Supreme Court, in *Endrew F. v. Douglas County School Dist.*, held that the educational benefit must be more than *de minimus*. 137 S.Ct. 988, 197 L.Ed.2d 335 (2017). The Court held that the IDEA requires “an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” *Endrew F.*, 137 S.Ct. at 1001, 197 L.Ed.2d 335; *see also, Blake C. ex rel. Tina F. v. Hawai‘i Dept. of Educ.*, 593 F.Supp.2d 1199, 1206 (D. Hawai‘i 2009).

In deciding if a student was provided a FAPE, the two-prong inquiry is limited to (a) whether the DOE complied with the procedures set forth in IDEA; and (b) whether the student’s IEP is reasonably calculated to enable the student to receive educational benefit. *Rowley*, 458 U.S. at 206-7; 102 S.Ct. at 3050-3051. “A state must meet both requirements to comply with the obligations of the IDEA.” *Doug C. v. Hawai‘i Dept. of Educ.*, 720 F.3d 1038, 1043 (9th Cir. 2013); *see also, Amanda J. ex rel. Annette J. v. Clark County Sch. Dist.*, 267 F.3d 877, 892 (9th Cir. 2001).

Procedural violations do not necessarily constitute a denial of FAPE. *Amanda J.*, 267 F.3d at 892. If procedural violations are found, a further inquiry must be made to determine whether the violations: 1) resulted in a loss of educational opportunity for Student; 2) significantly impeded Parent’s opportunity to participate in the decision-making process regarding the provision of FAPE to the Student; or 3) caused Student a deprivation of

educational benefits. *Id.*

A. Petitioners have failed to prove that Respondents denied Student a FAPE by failing to comply with reevaluation and eligibility requirements leading up to and including the DOE's March 27, 2024 eligibility determination

Petitioners' first category alleges that the DOE failed comply with reevaluation and eligibility requirements leading up to an including the DOE's March 27, 2024 eligibility determination. While Petitioners do not point to specific factual allegations of errors made by the DOE in conducting the reevaluation and eligibility determination for Student,¹⁵ Petitioners emphasize the DOE's failures regarding parental participation and assessing all areas of suspected disability for Student.

One of the main provisions in the IDEA is to provide a cooperative process between parents and school districts to include meaningful participation by parents in the development of an educational program for a child with a disability. *M.M. v. Lafayette School Dist.*, 767 F.3d 842, 851 (9th Cir. 2014). In the evaluation process, school districts must "draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior, and ensure that information obtained from all of these sources is documented and carefully considered." *Id.* at 853. A copy of the evaluation reports and documentation of the determination of eligibility must be given to the parent upon completion of the process. *Id.* at 854; 20 U.S.C. §1414(b)(4)(B); 34 C.F.R. §300.306(a)(2). Under the IDEA,

¹⁵ During the course of the hearing, Petitioners made several references to the DOE's decisions to combine the reevaluation meetings with IEP meetings, as well as the time between the initial request for reevaluation made by Parent and the start of the reevaluation process that led up to the March 27, 2024 eligibility determination. However, no specific allegations regarding this issue were included in Petitioners' closing brief.

reevaluations “may not occur more than once per year, unless the parent and the public agency agree otherwise.” 34 C.F.R. §300.303(b)(1).

As an initial matter, Student had gone through the reevaluation process in December 2020 through March 2021 as part of the triennial reevaluation process,¹⁶ and again in September 2022 through December 2022 at Parent’s request. *See* P62, p.13149-13152. The latest eligibility determination was in December 2022. *FOF 29-30*. In April 2023, Parent requested an FBA be conducted with Student due to Student’s recent diagnosis of [REDACTED]. *FOF 33*. The DOE was in the process of completing Student’s IEP for the 2024-2025 school year and wanted to complete the process before determining whether a reevaluation or FBA was necessary for Student. *FOF 34*. The IEP for Student was completed in May 2023, and Petitioners filed a Request for Impartial IDEA Due Process Hearing on July 24, 2023. *FOF 37*. In August 2023, the DOE held a meeting to discuss a possible FBA for Student. *FOF 38*. This discussion continued through January 2024 based on additional information that the team felt was necessary to make the determination. *FOF 39-43*.

Petitioners have not provided any authority that requires that the DOE must agree to a parent’s request to do a reevaluation within the one year time period of the previous reevaluation. The request made by Parent in May 2023, was less than one year after the previous request for a reevaluation and less than six months after the previous reevaluation was completed. While Petitioners argue that the new diagnosis made in April 2023 warranted a reevaluation of Student, the evidence presented is that no new information was contained in the report provided by the doctor, except for the specific diagnosis of [REDACTED]. The previous reevaluation assessments and

¹⁶ This process refers to the IDEA requirement that a reevaluation must occur once every three years, unless the parent and public agency agree that a reevaluation is unnecessary. 34 C.F.R. §3003.303(b)(2).

reports, including the neuropsychological report provided to the DOE by Parent, contained information that was similar to the report containing the [REDACTED] diagnosis. Further, the report submitted by the doctor that provided the [REDACTED] diagnosis failed to provide any detailed information about Student's performance on the test that was used to make the diagnosis and failed to include information about whether the doctor had any information about Student's performance in school. *See A.P. by E.P. v. Pearland Independent School Dist.*, 158 F.4th 672, 678-679 (5th Cir. 2025) (finding that "teacher testimony regarding a student's academic performance is granted substantial weight in IDEA proceedings, especially over assessments that failed to include classroom observations or observations by teachers); *see also Alvin Indep. Sch. Dist. v. A.D. ex rel. Patricia F.*, 503 F.3d 378-384 (5th Cir. 2007) (affirming a district court's fact finding that a teacher's testimony regarding a student's educational success in school is more probative than testimony from a student's physician). The DOE was aware of Student's difficulties with communication, writing, and social/emotional behaviors and addressed them in the previous IEPs that were developed for Student. The specific [REDACTED] diagnosis did not provide a basis for triggering a new reevaluation within six months of the completion of the last reevaluation.

Nonetheless, the DOE responded to Parent's request for an additional assessment in a reasonable time given the circumstances of the team being in the process of developing Student's IEP and responding to Petitioners 2023 Due Process Complaint. *See FOF 34-37*. Upon the DOE's responding to Parent's request for another reevaluation, specifically for an FBA, an observation of Student at school was completed by a qualified examiner and a series of meetings were set up for a SFT to determine the need for another reevaluation and if one was required, what assessments would be conducted as part of the reevaluation. *FOF 40*. The SFT's decisions

in seeking additional information, discussing the additional information, and additional information provided by Parent during the same time period, and ultimately determining that no new additional information was necessary to assess Student's continued eligibility for IDEA services was reasonable based on the evidence presented at the Hearing. Petitioners have offered no authority to support a finding that the procedures that the DOE followed in the reevaluation from April 2023 through January 2024 was a violation of the IDEA.

At the February and March 2024 eligibility meetings, Student was determined to be eligible under the category of [REDACTED] in the area of [REDACTED]. The evaluation summary report complied with the requirements of 34 C.F.R. §300-311 and provided the information to Parent as to the basis for the eligibility determination. *See FOF 16, 46.* The DOE took further care to continue the meeting from February to March to further discuss other possible categories of eligibility, despite the majority of the team members agreeing with the [REDACTED] category for Student. *FOF 44-46.* A link to a google document was sent to Parent to acknowledge Parent's agreement or disagreement with the determination. Parent refused to sign and noted Parent's objection to the eligibility determination under [REDACTED]; however, Parent did not provide a "separate statement presenting the member's conclusions" to reflect Parent's disagreement with the determination. *FOF 48.* Parent only noted that "Parent [did] not agree that the Department of Education has complied with the law concerning the evaluation and eligibility process." No evidence presented at the Hearing supports Parent's disagreement with the determination that the most appropriate category for Student's eligibility under the IDEA is [REDACTED].¹⁷

¹⁷ This Hearings Officer notes that Petitioners have not indicated in any way that they believe Student should not have been found eligible for special education and related services. It appears based on the evidence, testimony, and arguments presented, that Petitioners believe that Student should have been found eligible under a different category. However, the category of eligibility is not determinative of what kind of special education and related services is provided to a child

At all times relevant to the reevaluation and eligibility determination, Parent was included in the decision-making process and provided all the information that was necessary. Parent was provided with the assessment results from the most recent reevaluation, progress reports, report cards, and had access to Student's work through the program used by the DOE. See P62, 13152-13153, 13155-13157. Parent had consistently been given frequent 'checks for understanding' information and information provided throughout the prior school year about Student's performance and behaviors in the classroom. Petitioners' claim that Parent was not provided with the specific work and raw data and observations that was relied upon by the team is not supported by evidence that Parent, even if the information requested had been provided, would have the qualifications necessary to distill that information into a different analysis than what was provided by the qualified school personnel at the SFT and eligibility meetings.

This Hearings Officer finds that no procedural violation resulted from the DOE's procedures for reevaluation process that began in April 2023 and ended in January 2024.

B. Petitioners have not proven that the DOE denied Student a FAPE by failing allow an Independent Educational Evaluation at parent expense by not permitting an observation on campus during the 2023-2024 and 2024-2025 school years¹⁸

Petitioners' next argument is that the DOE denied Student a FAPE by not allowing an independent observation of Student on the DOE campus as part of an independent educational evaluation by Parent.

No mandate either for or against access by an independent examiner on school campuses has been developed under the IDEA. Instead, "the process contemplates cooperation between

with a disability. *E.M.E.M., a minor, by and through his parents, E.M. and E.M., v. Pajaro Valley Unified School Dist. Office of Administrative Hearings*, 758 F.3d 1162, 1173 (9th Cir. 2014) (citations omitted).

¹⁸ This section will address Petitioners' issues category 2 and 9.

parents and school administrators.” *G.J. v. Muscogee School Dist.*, 668 F.3d 1258, 1267 (11th Cir. 2012) (citing *Letter to Mamas*, 42 IDELR 10 (OSEP, May 26, 2004)). Here, Parent requested that an independent observer be admitted onto campus to allow for an observation of Student for an IEE. Former School inquired with the school district for advice and then requested consent from Parent regarding the appropriateness of the observation. Based on the timing of the request, Former School did not respond to Parent before the school year ended. *FOF 53, 56*. At the start of the 2024-2025 school year, Parent again requested access for an private examiner to observe Student on campus, which was denied by Current School. *FOF 90*. Current School noted that in considering whether the risk of disruption of having an observer in the classroom outweighed the concern for behaviors that prompted such a request, Student did not demonstrate any behaviors of concern. *FOF 91*. This Hearings Officer notes that the concerns expressed by Current School in refusing Parent’s request are reasonable based on the reports by Former School and Current School that Student did not demonstrate any maladaptive behaviors in school. *FOF 14-15, 24-25*.

Petitioners have failed to prove that the DOE denying Parent’s request to have an independent examiner observe Student on campus for the 2023-2024 and 2024-2025 school years was a procedural violation under the IDEA.

- C. Petitioners have not proven that the DOE denied Student a FAPE by failing to treat Student comparably to Student’s nondisabled peers in terms of the timely accessibility of records concerning Student’s educational progress during the 2023-2024 and 2024-2025 school years¹⁹

Petitioners raise the issue of whether the DOE failed to treat Student comparably to Student’s nondisabled peers in terms of the timely accessibility of records concerning Student’s

¹⁹ This section will address Petitioners’ category 3 and 10 in the Complaint.

educational progress during the 2023-2024 and 2024-2025 school years. Petitioners argue that the DOE provides nondisabled students access to “Infinite Campus,” which is an online program where students are able to check their homework assignments, quiz, and test scores regularly during the school year, but does not provide a similar program for students to check their IDEA progress on their goals and objectives, making it a disparate treatment by the DOE against nondisabled students.

Petitioners provide not legal support or requirement that schools must provide up-to-date information to either disabled or nondisabled students regarding their test scores or homework assignments through any means. The advent of technology has made it infinitely easier for students to be aware of their homework, quiz, and test scores at any given time during the semester so that they are able to seek help or make up assignments [REDACTED]

[REDACTED] The IDEA does not contemplate any such constant updates regarding IEP goals and objectives, nor are any constant updates required besides the progress reports on a student’s goals and objectives. Further, a student’s progress on IEP goals and objectives does not affect a student’s future in education like the grades that students get at the end of a quarter, semester, or year. Petitioners have provided no support or authority, or even any reason why such constantly accessible updates need to be provided to parents for IEP goals and objectives. The special education and related services providers are obligated to keep track of the progress or lack of progress a student is making on goals and objectives so that IEP teams can later adjust a student’s IEP as necessary, but nothing else requires a school to create a program to provide parents with such updates.

Further, in this case, Student’s IEP goals and objectives are based primarily on Student’s in-class work, homework, quizzes, and tests. The evidence presented at the Hearing is that

Student is being assigned the same in-class work, homework, quizzes, and tests, that the general education (nondisabled) students are being assigned. No modifications are being made to Student's work (such as requiring essays that are shorter in length, easier reading passages for reading assignments, or easier assignments for any of Student's classes), so Petitioners have the same access to the information requested through Infinite Campus as the general education students. Petitioners can easily see whether Student is making progress on Student's goals and objectives by seeing whether Student received a passing grade on the assignment that was being reviewed.

Petitioners have failed to prove that the DOE failed to treat Student comparably to Student's nondisabled peers in terms of timely accessibility of records containing Student's educational progress during the 2023-2024 and 2024-2025 school years.

D. Petitioners have not proven that the DOE denied Student a FAPE by failing to properly develop Student's IEP-07/█/2024 and Student's IEP-07/█/2025²⁰

Petitioners' next two categories argue that the DOE did not properly develop Student's July █, 2024 IEP and July █, 2025 because the IEP team failed to adequately consider the strengths of Student; the concerns of Parent for enhancing the education of their child; the results of the initial or most recent evaluation of the child; and the academic, developmental, and functional needs of the child. Petitioners primarily rely on the alleged failure of the DOE to concede to Parent's demands on what should be included in the IEP, particularly the PLAAFPs section.²¹

Petitioners also allege that the DOE failed to consider the FBA and recommendations

²⁰ This section addresses Category 4 and 11 of the Complaint.

²¹ While Petitioners do not specifically argue this in their closing brief, this Hearings Officer bases Petitioners argument on the evidence presented and the questioning of the witnesses.

completed by the private ABA company, the assessment and recommendations conducted by the private occupational therapy company, and the assessment and recommendations of the speech-language assessment that was conducted by the DOE as part of the IEP development. *See* P67, p.15197-15198. The IDEA does not require school districts to draft or develop IEPs in strict compliance with what is requested or offered by parents. *Doe by Gonzales v. Maher*, 793 F.2d 1470, 1490 (9th Cir. 1986). The school district's responsibility is to formulate the plan to the best of its ability in accordance with the information developed at the IEP meetings, but must afford parents a due process hearing in regard to that plan. *Id.*

Petitioners also assert that the IEP fails to adequately consider special factors, such as whether Student's behavior impedes learning, communication needs, and needs for assistive technology. The evidence presented at the Hearing is that Student does not display any behaviors in school that impedes learning of Student or others; that Student is able to communicate with both teachers and peers, and has been noted to self-advocate when necessary; and Student receives assistive technology as part of the supplemental aids and supports in the IEP. *FOF 17, 24-25, 40, 50-51, 81-83*. While some teachers have noted that Student has refused to use the supports on occasion, that does not amount to the IEP team not considering those needs of Student. *FOF 84*.

Petitioners' other arguments that the IEP team lacked required team members and that the DOE failed to provide for Parent to be able to participate in the IEP development fails. No evidence presented supports that the IEP meetings lacked the required attendees under the IDEA, and there is an abundance of evidence in the record to show that Parent was at minimum an equal participant in the development of Student's IEP. *See FOF 74, 130*.

Petitioners have failed to prove that the DOE did not properly develop the IEP-

07/█/2024.

E. Petitioners have not proven that the DOE denied Student a FAPE because the IEP-07/█/2024 was not substantively appropriate

Petitioners next argue that the DOE denied Student a FAPE through the IEP-07/█/2024, which was not substantively appropriate. Petitioners cite to the law regarding each section of an IEP and note that the DOE did not comply with that section of the law. However, Petitioners cite no specific parts of the IEP-07/█/2024 that does not confer a meaningful benefit to Student in light of Student's unique needs.

As noted, *supra*, an IEP is determined to be appropriate if it is designed to address the needs of the student to afford the student the opportunity to make progress in light of the student's unique needs and convey a meaningful benefit to the student. *Los Angeles Unified School District v. A.O. by and through Owens*, 92 F.4th 1159, 1172 (9th Cir. 2024) (citing *Adams v. State of Oregon*, 195 F.3d 1141, 1149 (9th Cir. 1999)). The Court in *Adams* noted that “[w]e do not judge an [IEP] in hindsight; rather we look to the [IEP's] goals and goal achieving methods at the time the plan was implemented and ask whether these methods were reasonably calculated to confer [the student] with a meaningful benefit.” 195 F.3d at 1149.

Petitioners cite first to the PLAAFPs section of the IEP-07/█/2024 and note that the IEP “lacks an adequate statement of present levels of academic achievement and functional performance.” Yet the evidence presented at the Hearing is that the IEP-07/█/2024 contains an abundance of information about Student's levels of academic achievement and functional performance, including at Parent's request, all scores from assessments given to Student at school, grade-level standards for each section of academic achievement and Student's relative performance to each standard, examples of Student's work that was completed relative to the grade level standards, in addition to the standard information gathered by Student's teachers in

class. *FOF 63-66*. Petitioners fail to cite to specific information that they believe needs to be included, other than a recitation of the [REDACTED] diagnosis report and the neuropsychological assessment that was completed with Student; however, Petitioners fail to demonstrate how a recitation of those reports would change Student's needs or resulting goals and objectives in Student's IEP-07/[REDACTED]/2024. It is very clear from the record that Student's primary, and at this point, only real struggle in school is with [REDACTED], although Student has made substantial progress with the assistance of Student's IEPs over the years. *FOF 81-83; see P62, p.13157-13158*.

Petitioners claim that the goals and objectives in the IEP are inappropriate because they fail to specify how many trials will be given to Student over the course of the year, which would be necessary for a team members to understand whether Student is meeting Student's objectives or annual goals. Petitioners fail to point to any requirement under the IDEA that schools need to rigidly describe the goals and objectives in an IEP for it to be substantively appropriate. The goals need only be reasonably calculated to allow Student to make progress, which they do in the IEP-07/[REDACTED]/2024.

The IEP-07/[REDACTED]/2024 contains special education, related services, and supplemental aids and supports that will be provided to Student to allow Student to make progress on Student's goals and objectives. *FOF 68-69*. Petitioners' argument that the supports need a more rigid description than "when completing a writing assignment" is not supported by the law. The language of when Student would be provided the support would be clear to any potential teacher for Student to understand when the support should be offered to Student.

Petitioners also claim in passing that the IEP-07/[REDACTED]/2024 does not provide ESY services for Student; however Petitioners have not advanced any argument that the DOE failed to find that Student would be eligible for ESY services. A school must provide ESY services only if the

child’s IEP team determines that the services are necessary ‘for the provision of FAPE to the child.’ *N.B. v. Hellgate Elementary School Dist., ex rel. Bd. of Directors, Missoula County Mont.*, 541 F.3d 1202, 1211 (9th Cir. 2008). To qualify for extended school year services, “a claimant seeking an ESY must satisfy an even stricter test, because ‘providing an ESY is an exception and not the rule under the regulatory scheme.’” *N.B.*, 541 F.3d at 1211, *quoting Bd. of Educ. of Fayette County v. L.M.*, 478 F.3d 307, 315 (6th Cir. 2007) *quoting Cordrey v. Euckert*, 917 F.2d 1460, 1473 (6th Cir. 1990), *cert. denied*, 552 U.S. 1042, 128 S.Ct. 693, 169 L.Ed.2d. 513 (2007); *see also Dep’t of Educ. v. L.S. by C.S.*, 74 IDELR 71, 2019 WL 1421752 *7 (D. Hawai‘i 2019) (holding that ESY is “educational instruction beyond the normal academic year provided to students who need the additional instruction to retain information during a break in regularly scheduled classes, such as during the summer.”). The standard for ESY is higher than the standard for the provision of special education and related services due to the requirement to show that the benefits the student gains during the regular school year will be significantly jeopardized if he or she is not provided with an educational program during school breaks. *Id.*, *quoting MM ex rel. DM v. Sch. Dist. of Greenville County*, 303 F.3d 523, 537-538 (4th Cir. 2002); *see also K.K. ex rel. K.S.K. v. Hawai‘i*, 66 IDELR 12, 2015 WL 4611947; *Kenton County Sch. Dist. v. Hunt*, 384 F.3d 269, 279 (6th Cir. 2004) (confirming that “it is the proponent of ESY that bears the burden of proof either through the use of data or the use of expert testimony.”).

While Student had previously been found eligible for ESY services, no evidence in the record supports that Student would need services to prevent regression with an extended period of recoupment in order to maintain the skills that Student had gained in the school year. *See* P62, p.13157. Student attended a general education [REDACTED] class in the summer of 2024. *FOF 75.*

Petitioners also argue that Student's LRE is not appropriate for Student or that the IEP-07/2024 fails to describe the extent that Student will participate with nondisabled students. The LRE focus under the IDEA is to promote the learning of disabled students alongside their nondisabled peers in order for them to receive both academic and non-academic benefits from being placed in their LRE. In this case, Student's LRE in the IEP-07/2024 was the general education classroom for all classes except ELA, which would be in the inclusion classroom. *FOF* 73. The evidence shows that Student gains benefits from being in the general education and inclusion classrooms and learning with Student's peers. *See* P62, p.13155-13157. Student has demonstrated proficiency in most subjects at or near grade-level and just needed additional assistance in ELA, where Student is able to get that assistance in the inclusion classroom. *See FOF 49-50, 63.* Petitioners have not made any cogent arguments that Student is not in the appropriate LRE or that Student should be in a more restrictive environment.

F. Petitioners have failed to prove that the DOE denied Student a FAPE by failing to convene an IEP meeting when requested at the start of the 2024-2025 school year

Petitioners' next argument is that the DOE failed to convene an IEP meeting when one was requested by Parent at the start of the 2024-2025 school year.

The evidence in this case is that Parent submitted a new private assessment to Current School in August 2024. Current School responded to Parent by indicating that an SFT meeting would be held, at which point, Parent indicated that Parent expected that an IEP meeting would also be held. Parent later rescinded the request for a meeting in order to allow Parent to obtain requested educational records before any meeting occurred. *FOF 89-92.*

Petitioners have not proven that the DOE failed to hold an IEP meeting after one was requested by Parent at the start of the 2024-2025 school year.

G. Petitioners have failed to prove that the DOE failed to implement Student's IEP-

07/█/2024

Petitioners argue that the DOE failed to implement the IEP-07/█/2024 by failing to ensure the provision of assistive technology, accommodations and modifications, the provision of special education, and the maintenance of data sheets supporting its IEP progress reports over the course of the reporting periods.

Allegations of a failure to implement an IEP are determined using an analysis of whether the failure to implement the IEP was a material failure, meaning when there is more than a minor discrepancy between the services that the school provides to a disabled child and the services required by the child's IEP. *Van Duyn ex rel. Van Duyn v. Baker School Dist.* 5J, 502 F.3d 811, 822 (9th Cir. 2007); *see also L.J. by N.N.J. v. School Board of Broward County*, 927 F.3d 1203 (11th Cir. 2019).

In this case, it appears that Petitioners' claim of failure to materially implement Student's IEP-07/█/2024 is based upon the failure of the school personnel to write Student's IEP progress reports in a manner in which Parent requested or expected from the DOE. P67, p.15079, 15191-15192. The Eleventh Circuit Court in *L.J. by N.N.J. v. School Board of Broward County*, 927 F.3d at 1212, reinforced the idea set forth by the Ninth Circuit Court in *Van Duyn*, 502 F.3d at 822, that rather than determining whether an IEP was implemented perfectly without error, it was more appropriate to determine whether a school has satisfied its obligations under the IDEA, which is to provide special education and related services in conformity with an IEP. Petitioners' primary claim for failure to implement the IEPs is the failure of the DOE to provide detailed and specific progress reports for Student regarding how many trials were conducted for each objective and how many times Student had been successful for those trials. *See* P67, p.15125-15126, 15128, 15133.

While courts have cautioned against using educational progress (or lack thereof) as a sole indicator of whether the IEP has been implemented, it has been suggested that implementation concerns should examine the actions of the school district in light of the IEP's overall goals. *L.J.*, 927 F.3d at 1215. In the *Rowley* case, the Court correctly pointed out that the IDEA provides students with access to an adequate, publicly supported education, but nowhere is it prescribed that students are entitled to a particular substantive level of education. 458 U.S. at 200, 102 S.Ct.2d at 3047-3048, 73 L.Ed 690. The Court specifically rejected the argument that the IDEA requires schools to provide "an opportunity to achieve her full potential commensurate with the opportunity provided to other children." 458 U.S. at 198, 102 S.Ct. at 3046-3047, 73 L.Ed.2d 690. Similar to this case, the student in *Rowley* performed better than the average student in classes and easily advanced from grade to grade. The U.S. Supreme Court did not find that the school district needed to provide more significant supports to such a student that was performing well relative to the nondisabled peers in the class.²² 458 U.S. at 209-210, 102 S.Ct.2d at 3052 73 L.Ed 690.

All evidence presented in this case demonstrates that Student has made significant progress under the IEP-07/ /2024. Student's teachers noted that Student had no behavioral issues that interfered with Student's education, Student made significant gains in the area of written expression, Student had learned to self-advocate, and Student's handwriting had

²² This Hearings Officer recognizes that the *Rowley* decision's standard was later clarified by the *Endrew* Court, but the *Endrew* Court also noted the stark difference in the abilities of the students in the cases, noting that one had been smoothly progressing through the regular curriculum versus one that who's needs did not provide a potential for ordinary grade-level advancement. The *Endrew* Court, however, also pointed out that the IDEA rejected a standard of requiring the opportunity to understand and participate in the classroom that was "substantively equal to that given her non-[disabled] classmates." 580 U.S. at 402-403, 137 S.Ct. at 1000-1001, 197 L.Ed.2d 335.

improved sufficiently for teachers to understand what was written in Student's handwritten work. *FOF 24-27*. The areas of need for Student in the IEP-07/18/2024 had all been addressed by the implementation of the IEP such that Student had demonstrable progress in the 2024-2025 school year. *FOF 95-98*. Student also received above-average grades for the 2024-2025 school year based on grade-level standards and earned [REDACTED] on the same scale as the nondisabled students at Current School. *FOF 75, 77*. Student has not had any difficulty with passing from grade to grade with exceptional marks on Student's report cards and Student has been provided with opportunities commensurate with other students at Current School.

An analysis of the overall goal of the IEP-07/[REDACTED]/2024, which was to allow Student to make progress in both Student's IEP goals and objectives and through the general education curriculum results in a determination that any possible failures by the DOE to implement Student's IEP-07/[REDACTED]/2024 were at best, *de minimus*, and did not rise to the level of a material failure to implement Student's IEP. Petitioners have not demonstrated that the DOE failed to implement Student's IEP-07/[REDACTED]/2024.

H. Petitioners have failed to prove that the DOE failed to afford Parent the opportunity to inspect and review all educational records

Petitioners assert that the DOE failed to afford Parent the opportunity to inspect and review all educational records. Parent has previously made this allegation in the two prior due process complaints and has not identified any significant changes to this argument as it relates to this current Complaint.

The IDEA requires a school district to allow parents and/or students to review and inspect all educational records that are collected, maintained, or used pursuant to the IDEA. The right to review and inspect educational records includes the right to a response from the school district for explanations and interpretations of the records, the right to provide a copy of the records if

failure to provide a copy would essentially prevent the parents from inspecting the records, and the right to have a representative of the parent to inspect and review the records. 34 C.F.R. §300.613(a), (b). The definition of an educational record under the IDEA comes from the regulations implementing the FERPA. 34 C.F.R. §300.611(b). The definition under FERPA defines an educational record as “records, files, documents, and other materials which – (i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.” 20 U.S.C. §1232g(a)(4)(A); *see also* 34 C.F.R. §300.613(b); *Owasso Independent School Dist. No. I-011 v. Falvo*, 534 U.S. 426, 429, 122 S.Ct. 934, 937, 151 L.Ed.2d 896 (2002). The definition of educational records also includes an exception for “records of instructional, supervisory, and administrative personnel ... which are in the sole possession of the maker thereof and which are not accessible or revealed to another person except a substitute.” 20 U.S.C. §1232(g)(a)(4)(B)(i). In determining whether the definition of educational records covered a peer-graded assignment, the U.S. Supreme Court noted that the use of the word “maintain” in the FERPA definition suggest that the record would “be kept in a filing cabinet in a records room at the school or on a permanent secure database...” *Owasso*, 534 U.S. at 433, 122 S.Ct. at 939, 151 L.Ed.2d 896. Other courts have interpreted this case in connection with the FERPA definition of educational records to hold that documents, such as emails regarding the student, are only part of a student’s educational record if they are printed and/or stored in a physical or electronic database for the student. *See e.g., S.A. v. Tulare County Office of Educ.*, 2009 WL 3296653 (E.D. California 2009); *Burnett v. San Mateo Foster City School District*, 739 Fed.Appx. 870, 873 (9th Cir. 2018).

A failure to provide a parent the opportunity to inspect and review a student’s educational record would be a procedural violation of the IDEA and the determination of whether the failure

was a denial of FAPE requires proof that the violation resulted in a loss of educational opportunity for the student, a significant impairment on the parent's ability to meaningfully participate in the student's IEP process, or a deprivation of educational benefits. *L.J. by and through Hudson v. Pittsburg Unified School District*, 850 F.3d 996, 1007 (9th Cir. 2017) (holding that the school district's failure to disclose assessments, treatment plans, and progress notes for the student interfered with the parent's ability to make informed decisions and participate meaningfully in student's IEP development); *see also Amanda J.*, 267 F.3d at 892.

Here, Petitioners argue that both Former School and Current School failed to provide Student's complete educational records when requested by Parent, thereby denying Student a FAPE by preventing meaningful parental participation. The record in this case demonstrates that both Former School and Current School provided thousands of pages of educational records to Parent, both in electronic form and by making the records available for inspection. *FOF 50, 55, 95, 98-100*. Parent was able to use the information that was received from Former School and Current School to actively participate in the development of Student's IEPs. Petitioners have not demonstrated how, even if records had been missing from the numerous documents that were provided, the failure of the DOE to provide such records would result in a denial of FAPE. Petitioners have not demonstrated whether any records that had not been provided, if any, would have been considered educational records under the relevant statutes.²³ Petitioners have not demonstrated any loss of educational opportunity by Student, a significant infringement on

²³ This Hearings Officer notes that Petitioners made numerous requests under UIPA for any records maintained by the DOE that include any mention of Student, including emails and other such records kept by DOE personnel that are not considered educational records. This Hearings Officer notes that since the issue of what records would be considered educational records that need to be provided under the IDEA has been litigated in at least one of the two prior due process cases, this Hearings Officer declines to reopen this issue for argument.

Parent's ability to participate in the IEP development process, or a deprivation of educational benefits. Petitioners have failed to meet their burden of proof on this issue.

I. Petitioners have failed to prove that the DOE denied Student a FAPE because the IEP-07/█/2025 was not substantively appropriate

Petitioners next argue that the DOE denied Student a FAPE through the IEP-07/█/2025, which was not substantively appropriate. Petitioners again cite to the law regarding each section of an IEP and note that the DOE did not comply with that section of the law. However, Petitioners cite no specific parts of the IEP-07/█/2025 that does not confer a meaningful benefit to Student in light of Student's unique needs.

Similar to the IEP-07/█/2024, the IEP-07/█/2025 contains a thorough and robust PLAAFPs section that addresses Parent's concerns raised regarding several sections in the PLAAFPs, such as having a baseline measurement, having grade-level standards included in the strengths/needs sections, and including work samples of Student. *FOF 120-123*. An independent reviewer with an educational background of the IEP can clearly discern Student's strengths and needs in academic and functional skills. That more that sufficiently complies with the requirement of an adequate statement of present levels of academic achievement and functional performance.

Student's IEP-07/█/2025 contains goals and objectives designed to address Student's needs in the subject of ELA, based primarily on SPED's extensive work with Student and assessment of Student's strengths, needs, abilities, and opportunities to accomplish the goals and objectives. *FOF 125*. This remains the only area of need that qualifies Student for special education and related services, since Student has demonstrated Student's ability to not just keep up, but also excel in the general education curriculum. *FOF 102-103*. It is worth mentioning again that Student has received mostly above-average grades and test scores in school without

any modifications being done to Student's school work. *FOF 77, 81-85*. This translates into Student demonstrating at or above-grade level skill in the different academic areas.

Student's IEP-07/█/2025 contains an accurate statement of the special education, supplementary supports, and LRE for Student, which was based on reasonable information that the IEP team had at the time of the development of the IEP-07/█/2025 and is also supported by evidence from the 2024-2025 school year. *FOF 127-128*.

Student's IEP-07/█/2025 also contained a sufficient statement of transition service needs of Student. █

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Petitioners have failed to prove that the IEP-07/█/2025 is not substantively appropriate to allow Student to make progress in light of Student's unique needs.

J. Petitioners have failed to prove that the DOE failed to comply with reevaluation requirements in the 2024-2025 school year and 2025 summer

Petitioners allege that the DOE failed to comply with reevaluation requirements in the 2024-2025 school year and the 2025 summer. Petitioners appear to argue that the DOE failed to timely conduct a reevaluation of Student when one was requested by Parent, despite Student having undergone three reevaluations since 2021.

The timeline of events in this case are that Student completed the 2024-2025 school year in May 2025. The IEP team was attempting to schedule IEP meetings with Parent to develop an IEP for Student for the 2025-2026 school year. During the email communications, Parent

requested another reevaluation at the end of the school year due to the DOE having not conducted several assessments within the past three years, even though Petitioners provided, and the IEP team had considered, similar assessments that were completed since 2022. *FOF 106*. Petitioners did not raise any specific concerns in the areas that were requested for reevaluation or note that Student had new behaviors or needs in the areas of requested evaluation. It appears that Petitioners believed that another reevaluation needed to be done simply because the previous assessments were nearly three years old.

The team scheduled a meeting with Parent to discuss a possible reevaluation for Student on July 1, 2025 and determined that the team would conduct academic and speech-language assessments and an observation of Student as part of a reevaluation. *FOF 112, 116*. These assessments were conducted in the summer of 2025. *FOF 22-23*. The process for the reevaluation was still ongoing at the time of the Hearing in this case. *FOF 137*.

Petitioners argue that the IDEA requires that school districts assess a student for all areas of suspected disability, but this refers to initial evaluations where a child is being evaluated on whether they would be eligible for special education and related services. Student in this case has been found eligible since Student's start at the DOE and none of Student's IEP teams have tried to determine whether Student may no longer eligible for special education, even despite Student's clear academic success with supports that can be given without an IEP.²⁴

²⁴ For example, since Student's assignments or the teaching methods of the general education teachers that provide instruction to Student are not modified in any way, Student may instead be better suited for supports under a plan under Section 504 of the Rehabilitation Act of 1973, where Student is given extended time, assistive technology, or other supports to allow Student to access the general education curriculum. "Specially designed instruction" required under the IDEA refers generally to individualized, tailored teaching where the methodology or the content of instruction are altered if general methods or supports are not provided. Student's high grade in a general education summer school class where Student received no supports, as well as Student's overall performance academically in school suggest that Student may no longer require

Petitioners offer no cogent arguments as to how the DOE failed to comply with the reevaluation requirements under the IDEA or why that would amount to a denial of FAPE for Student. Petitioners have not met their burden of proof on this issue.

K. Petitioners have failed to prove that the DOE denied Student a FAPE through a collective failure to comply with the requirements under the IDEA

Petitioners' final argument regarding Student's IEP development is that the DOE denied Student a FAPE by committing numerous procedural violations against Petitioners which collectively amounted to a denial of FAPE. As noted in the discussion, *supra*, Petitioners have failed to prove that the DOE committed any of the numerous procedural violations alleged in this case. Having determined that no procedural violations occurred, this Hearings Officer finds that Petitioners have failed to meet their burden of proof on this issue.

Even assuming, *arguendo*, that the DOE committed procedural violations in this case, Petitioners have not met their burden of proof that the violations resulted in a denial of FAPE. A denial of FAPE occurs only when procedural violations result in a loss of educational opportunity, a significant denial of parental participation, or a deprivation of educational benefits. *Amanda J.*, 267 F.3d at 892.

In this case, it is unquestionable that Parent was afforded ample opportunities to participate in the reevaluation process, eligibility determination, and the IEP development process. *FOF 74, 130*. While Parent attempts to argue that Parent was not provided with all the records that Parent may have requested from the DOE, such as data sheets, to provide information about Student's IEP progress reports, this argument has no merit. Parent had access to Student's report cards, IEP progress reports, and Student's daily work through the general

special education services and may be able to continue to make progress under a Section 504 plan.

education student portal for assignments and since Student's IEP goals and objectives were based on the work that Student was completing. *FOF 78-79, 96-97*. Petitioners argue that the teachers were required to provide some kind of data sheets to Parent for Student's goals and objectives, but Student's goals and objectives did not lend itself to that kind of data-keeping metric. *See Testimony of SPED, Tr.V3, 290:5-350:14*.

Student has also demonstrated great academic and behavioral achievement in school. Student is completing grade-level work that the general education students are receiving and is earning [REDACTED] grades on Student's general education report cards. *FOF 75, 77, 131*. Student was able to complete two general education summer school classes, in which no specially designed instruction was provided, and still earned [REDACTED] grades in both classes with the IEP supports to which Student was provided. *FOF 102-103*. Student participates in extra-curricular activities and has been seen socializing with peers. *FOF 15, 17, 80*. [REDACTED]

[REDACTED]

Petitioners have not met their burden of proof that any IDEA procedural violations occurred in this case, and even if some may have occurred, they did not result in a denial of FAPE to Student.

VII. DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the undersigned Hearings Officer finds that Petitioners have failed to prove the issues in the instant Complaint by a preponderance of evidence. This Hearings Officer finds that Student's IEP-07/[REDACTED]/2024 and IEP-07/[REDACTED]/2025 were appropriately developed and addressed Student's unique needs such that Student would be able to make reasonable progress in school. The DOE substantially complied with the reevaluation process, the IEP development process, the access to educational updates in

a similar manner to Student's general education peers, and the numerous records requests by Parent. The IEP-07/■/2024 was materially implemented for the 2024-2025 school year and allowed Student to not just progress but excel academically at Current School.

This Hearings Officer hereby dismisses the allegations in the Petitioners' Complaint and respectfully denies the relief sought by Petitioners.

RIGHT TO APPEAL

The decision issued by this Hearings Officer is a final determination on the merits. Any party aggrieved by the findings and decision of the Hearings Officer shall have 30 days from the date of the decision of the hearings officer to file a civil action, with respect to the issues presented at the due process hearing, in a district court of the United States or a State court of competent jurisdiction, as provided in 20 U.S.C. §1415(i)(2) and §8-60-70(b).

DATED: Honolulu, Hawai'i, January 2, 2026.



CHASTITY T. IMAMURA
Hearings Officer
Richards Building
707 Richards Street, Suite 520
Honolulu, Hawai'i 96813
Phone: (808) 587-7680
Fax: (808) 587-7682
atg.odr@hawaii.gov