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Office of Dispute Resolution  
State of Hawai'i  
Department of the Attorney General

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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,<sup>1</sup>

Petitioner(s),

vs.

DEPARTMENT OF EDUCATION, STATE  
OF HAWAI'I,

Respondents.

DOE-SY2526-044

FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND DECISION

Due Process Hearing:

June 25-26, 2026

July 1-2, 6, 8-9, 2026

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 failures in implementation of Student's Individualized Education Program (hereinafter "IEP") in the 2025-2026 school years and numerous procedural violations in determining Student was no longer eligible for special education and related services under the

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<sup>1</sup> Personal identifiable information is contained in the Legend.

IDEA. Petitioners also allege procedural violations were committed under Section 504 of the Rehabilitation Act of 1973 (hereinafter “Section 504”).

## **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.* This proceeding was also invoked pursuant to Section 504, as amended, codified at 29 U.S.C. §794, *et seq.*; the federal regulations implementing Section 504, 34 C.F.R. §104.1, *et seq.*; and Hawai‘i Administrative Rules §8-61-1, *et seq.*

## **III. ISSUES PRESENTED**

Petitioners assert nine issues in their Request for Impartial Due Process Hearing (hereinafter “Complaint”) to be addressed at the Hearing:

1. The DOE failed to comply with reevaluation and eligibility requirements under the IDEA leading up to and including the DOE’s eligibility determination on April 20, 2026.
2. The DOE failed to permit an Independent Educational Evaluation at the Parent’s expense by not permitting an observation on campus during the 2025-2026 school year.
3. The DOE failed to treat Student comparably to nondisabled peers in terms of timely accessibility of records concerning Student’s educational progress during the 2025-2026 school year.
4. The DOE failed to convene a timely IEP meeting during the 2025-2026 school year despite Parent’s request.
5. The DOE failed to have the necessary team members as part of its reevaluation meetings.
6. The DOE failed to properly implement the IEP during the 2025-2026 school year and violated both the IDEA and Section 504.
7. The DOE violated 34 CFR §104.33 in relation to its obligation to provide FAPE.
8. The DOE violated 34 CFR §104.35, HAR §8-61-3, and HAR §8-61-4 in relation to preplacement evaluation, evaluation procedures, and placement procedures.
9. The DOE’s violations of the law collectively constitute a denial of a free appropriate public education under the IDEA and Section 504.

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, speech/language/communication, and fine motor.
2. Permission to allow a private [REDACTED] 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 [REDACTED], 2022, will be incorporated into the new IEP.
5. This would include, but not be limited to, “[r]eceiving explicit, structured instruction to remediate 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 [REDACTED], 2022, 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 of [REDACTED] in the [REDACTED] documentation provided to the Department of Education, such as the provision of [REDACTED] 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 [REDACTED] grade at Student's prior 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 the [REDACTED] 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 Infinite Campus as to how Student is doing in Student's 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 he has progressed and whether the gap between where he 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 he would be three 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. Assuming, arguendo, that the student is only eligible under Section 504, order the DOE to assess student in the following areas of concern: achievement, adaptive skills, cognitive ability, social/emotional/behavior, speech/language/communication, and fine motor. Additionally, develop a plan that complies with Section 504.
22. Such further and other legal and equitable relief as the Hearings Officer may deem just and necessary under the circumstances.

#### **IV. BACKGROUND**

On May 7, 2026, the Department of Education, State of Hawai'i (hereinafter

"Respondents" or "DOE") received a Request for Impartial Due Process Hearing (hereinafter

“Complaint”) under the IDEA and Section 504, from Student, by and through Parent (hereinafter “Petitioners”). Respondents submitted a response to Petitioners’ Complaint on May 15, 2026.

On June 3, 2026, 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. At the prehearing conference, the due process hearing (hereinafter “Hearing”) was scheduled for June 25-26, 29-30, July 1-2, 6, 8, 10, and 13, 2026.

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 the prehearing conference on June 3, 2026, 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 June 18, 2026, to allow Mr. Chun time to review the declaration and prepare cross examination. Parent submitted Parent’s Declaration on June 18, 2026, which was marked as

Petitioner's Exhibit 51 and received as evidence in this case. The Hearing began on June 25, 2026 with Mr. Chun's cross examination of Parent, which continued to June 26, 2026. 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 July 6, 2026. Respondents agreed to proceed with their witnesses until Petitioners' last witness was available. Due to unforeseen circumstances, the Hearing did not proceed on June 29-30, but Respondents began their case on July 1, 2026, where Vice Principal (hereinafter "VP") and Student Services Coordinator (hereinafter "SSC"). SSC's testimony continued to July 2, 2026, and Respondents thereafter called Behavior Health Specialist (hereinafter "BHS"), Psychologist, and Occupational Therapist (hereinafter "OT"). Petitioners called their final witness, General Education Teacher (hereinafter "GET") on July 6, 2026 and rested their case. Respondents continued with Social Studies Teacher (hereinafter "SST"), Physical Therapist (hereinafter "PT"), and History Teacher (hereinafter "HT") on that date. On July 8, 2026, Respondents called Special Education Teacher (hereinafter "SPED") and Care Coordinator (hereinafter "CC"). Respondents concluded their case on July 9, 2026 with the testimony of Speech-Language Pathologist (hereinafter "SLP").

Petitioners did not have any rebuttal witnesses, so the hearing concluded on July 9, 2026.

Each party submitted their exhibits for the Hearing by the disclosure deadline of June 18, 2026. 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.<sup>2</sup>

On July 11, 2026, counsel was sent updated exhibit lists for their review to ensure accuracy of the exhibits that would be admitted. The parties were allowed to provide corrections on the updated exhibit lists by July 15, 2026. Neither party submitted any corrections to the updated exhibit lists. On July 20, 2026, 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 1, pages 0001-0026; Exhibit 2, pages 0127-0144, 0211-0367; Exhibit 3, pages 0368-0371; Exhibit 4, pages 0426-0434; Exhibit 5, pages 0502-0528; Exhibit 6, pages 0529-0561; Exhibit 7, pages 0562-0582; Exhibit 8, pages 0583-0595; Exhibit 9, pages 0596-0746; Exhibit 10, pages 0747-0779; Exhibit 11, pages 0780-0833; Exhibit 12, pages 0834-0854; Exhibit 13, pages 0894-0934; Exhibit 18, pages 1269-1272; Exhibit 19, pages 1433-1504; Exhibit 20, pages 1520-1530; Exhibit 23, pages 1891-2243; Exhibit 24, pages 2388-2537; Exhibit 25, pages 2538-2545; Exhibit 26, pages 2546-2555; Exhibit 27, pages 2556-2633; Exhibit 30, page 2907; Exhibit 31, pages 2908-2914; Exhibit 32, pages 2915-2984; Exhibit 33, pages 3413-3414; Exhibit 34, pages 3415-3418; Exhibit 35, pages 3574-3602; Exhibit 37, pages 3660-3686; Exhibit 38, pages 3687-3754; Exhibit 39, pages 3755-3904; Exhibit 40, pages 3905-4122; Exhibit 43, pages 5206-5327; Exhibit 44, pages 5328-5472, 7296; Exhibit 45, pages 7297-7508; Exhibit 46, pages 7509-7513; Exhibit 47, pages 7514-7522; Exhibit 48, pages 7523-7626,

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<sup>2</sup> See November 21, 2025 List of Exhibits Received at Hearing for the full list of exhibits that were received into evidence.

7731-7750; Exhibit 49, page 7907; Exhibit 50, pages 7908-7990; and Exhibit 51, pages 7991-8041.

Respondents' exhibits that were received and considered as part of this Decision are as follows: Exhibits 7-8, pages 0031-0034; Exhibits 11-13, pages 0038-0042; Exhibits 15-17, pages 0045-0048; Exhibits 19-21, pages 0051-0054; Exhibits 23-25, pages 0057-0060; Exhibits 27-29, pages 0063-0067; Exhibits 31-33, pages 0070-0074; Exhibits 35-37, pages 0077-0081; Exhibits 39-41, pages 0084-0090; Exhibits 43-44, pages 0093-0094; Exhibits 46-51, pages 0104-0114; Exhibits 53-56, pages 0117-0131; Exhibit 68, pages 0149-0172; Exhibits 103-113, pages 0468-0521; Exhibits 120-217, pages 0534-1277; Exhibit 246, pages 1396-1586; Exhibits 251-261, pages 1607-1652; Exhibits 265-275, pages 1659-1671; Exhibit 277, pages 1677-1678; and Exhibits 280-283, pages 1727-1735.

Both parties wanted the opportunity to submit written closing briefs regarding the legal issues to this Hearings Officer for review. Petitioners requested that the initial deadline of July 21, 2026 be extended to allow this Hearings Officer to have the transcripts for review prior to the Decision deadline. Respondents took no position on the matter and Petitioners' request for extension of the Decision deadline was granted from July 21, 2026 to July 31, 2026, to allow this Hearings Officer to have the transcripts. Based on the extension request, the deadline by which the briefs were to be submitted was Thursday, July 23, 2026. 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.<sup>3</sup>

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<sup>3</sup> This Hearings Officer notes that while the entire record, including exhibits and transcripts of

## V. FINDINGS OF FACT

1. Student is currently [REDACTED] years old and is going to be in the [REDACTED] grade at Home School (hereinafter “Home School”). Student has been attending Home School since the [REDACTED] school year. Testimony of SPED, Transcript of Proceedings, Volume 6, page 802, line 21, through page 803, line 5 (hereinafter referenced as “Tr.V6, 802:21-803:5”).

### Procedural History

2. In July 2023, Petitioners filed a Request for Impartial Due Process Hearing under [REDACTED]. The Due Process Hearing was held on December [REDACTED] 2023, and February [REDACTED] 2024. The decision in that case was issued on April [REDACTED] 2024. P19, p.01458.
3. In July 2025, Petitioners filed a Request for Impartial Due Process Hearing under [REDACTED]. The Due Process Hearing was held on November [REDACTED] 2025. The decision was issued on January [REDACTED] 2026. P19, p1433-1504.
4. An IEP was created for Student after meetings ending on July 14, 2025 (hereinafter “IEP-07/14/2025”). The development of the IEP-07/14/2025 was one of the primary issues in the due process case under [REDACTED] and the Decision found that the IEP-

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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, Tr.V1-Tr.V2; *see also e.g.*, Testimony of SSC, Tr.V3, 377:20-378:17; Testimony of BHS, Tr.V4, 496:6-497:5; Testimony of OT, Tr.V4, 603:19-604:8; Testimony of SST, Tr.V5, 712:23-713:18; Testimony of HT, Tr.V5, 793:9-12; Testimony of SPED, Tr.V6, 853:23-854:3, 857:12-19. 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.

07/14/2025 was appropriate program to address Student's needs for the 2025-2026 school year that would allow Student to make reasonable progress in school in light of Student's unique circumstances. *See* P19, p.1433-1504.

5. The primary focus of the issues in [REDACTED] was the reevaluation process for Student and the subsequent IEP that was developed for Student based on the information obtained during the reevaluation. *See* P19, p.1433-1504.
6. The Decision determined that the reevaluation process was appropriate to allow the team to determine Student's continued eligibility for special education and related services under the IDEA and to develop an appropriate IEP. P19, p.1433-1504.
7. Due to the timing of the due process hearing, some exhibits and testimony in the [REDACTED] case are either identical or substantially similar to some evidence presented in the hearing in this case. *See* P19, p.1433-1504.
8. Based on Petitioners' request, since findings had already been made in [REDACTED] regarding facts that had been presented in that hearing, the evidence in the instant case was limited to the time period between the development of the individualized education program (hereinafter "IEP") on July 14, 2025 (hereinafter "IEP-07/14/2025")<sup>4</sup> through the filing date of the instant complaint, with some exceptions. *See* Testimony of Parent, Transcript of Proceedings, Volume 1, page 22, line 10, through page 43, line 12 (hereinafter referenced as "Tr.V1, 22:10-43:12"), 183:7-184:3.

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<sup>4</sup> Upon further review of the Decision in [REDACTED] and the issues alleged in this case, this Hearings Officer notes that the decisions made at the July [REDACTED] 2025 student focused team (hereinafter "SFT") meeting were not ruled upon, so no issue of *res judicata* would apply to this case. Since Petitioners allege the violation of the eligibility process in its entirety, the July [REDACTED] 2025 SFT meeting decisions would be part of that claim.

9. The prior due process hearings in [REDACTED] outlined the procedural history of Petitioners' complaints. Both cases [REDACTED] and [REDACTED] involved issues relating to a reevaluation of Student. *See* P19, p.1433-1504.
10. The initiation of the reevaluation in this case was on July [REDACTED] 2025 at a student focused team (hereinafter "SFT") meeting. During that meeting the team determined what assessments would be completed as part of Student's reevaluation. Some findings were made regarding the meeting on July [REDACTED] 2025, but no conclusions of law were made regarding the reevaluation and eligibility of Student that is the focus of this Complaint. *See* P19, p.1433-1504.

#### Student's relevant assessments

11. In November 2022,<sup>5</sup> 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. P2, p.00127-00144.
12. The psychological assessment noted that Student demonstrated strengths in using verbal skills to solve problems and express ideas; using solid abstract reasoning skills; having well-developed qualitative reasoning skills; having average memory functions comparable to same-aged peers; and being capable of making plans and generating solutions to problems when instructions and structure are explicitly provided. P2, p.00127.

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<sup>5</sup> While this assessment is over three years old, Petitioners maintain that this is the most recent evaluation of its type and therefore is relevant for purposes of this Decision.

13. Student demonstrated strength in the areas of mathematics and reading comprehension as being comparable to peers Student's age. P2, p.00128.
14. Behaviorally, Student demonstrated strengths related to character and social emotional functions. The assessor noted that teachers stated that Student "is well-behaved, kind, responsible, respectful, and follows directions well." Student was noted to "enthusiastically participate in class and helps peers" and is "focused, self-motivated, and can work independently." P2, p.00128.
15. Student was noted to have challenges in processing visual information; using Student's hands to build, draw, or design things; having poor working memory; having poor speed of mental processing; and having weak cognitive flexibility. Student's academic struggles were noted in the areas of reading fluency and writing. Student was also noted to have difficulty with executive functioning, anxiety, distractibility, weak social communication skills, and the tendency to perseverate on ideas that become distractions to Student. P2, p.00128-00129.
16. 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 focus and support on writing and reading. The assessment also found that Student struggled with fine motor skills and social communication, which indicated [REDACTED] rder. P2, p.00129-00130.
17. The psychological evaluator noted that Student did not meet the criteria for [REDACTED], but noted some traits that were consistent with such a diagnosis. P2, p.00129.

18. 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 sense of humor during communication; and maintaining appropriate physical distance. Weaknesses for Student were noted as including atypical speech patterns, such as halting, rapid, and loud initial speech patterns; interrupting others, joining/leaving an ongoing communicative situation; reading social cues; giving directions; and presenting matching gestures/facial expressions to verbal message and voice intonations. P2, p.00217-00221.
19. In April 2024, Student completed an [REDACTED] ELA assessment. The results of the assessment reflected that Student was nearly at the “standard met” level and may require further development to demonstrate the knowledge and skills in ELA to success in [REDACTED] P4, p.00426-00428.
20. In May 2024, Student completed an [REDACTED] science assessment. The results of the assessment reflected that Student scored in the “standard nearly met” range, which suggested that Student was approaching [REDACTED] school expectations and developing the ability to use the science and engineering practices. P4, p.00429.
21. In May 2024, Student completed an [REDACTED] math assessment. The results of the assessment reflected that Student scored in the “standard not met” range, which suggested that Student had not met the achievement standard and needs substantial improvement to demonstrate the knowledge and skills in mathematics likely needed for success. P4, p.00430-00432.
22. 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.<sup>6</sup> 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. P2, p.00264-00268.

23. It does not appear that the examiner reviewed Student's IEPs, nor sought or received information from Student's teachers regarding Student's abilities at school. *See* P2, p.00264-00268.
24. 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. P2, p.00268.
25. In February 2025, Student completed an occupational therapy reevaluation with Private Company. Student had been receiving occupational therapy from Private Company since December 2024. P2, p.00299-0308; R-Ex.103, p.0468-0480.

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<sup>6</sup> The examiner wrote "Note that the TILLS normative data report actual percentile ranks and not standardized Normal Curve Equivalent, 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." P2, p.00265.

26. Two standardized tests were conducted with Student as part of the occupational therapy reevaluation by Private Company. Observations were also made during Student's time at Private Company, an additional screener and checklist were completed, as well as an interview with Parent. P2, p.00300; R-Ex.103, p.0469.
27. Student's scores on the standardized assessments showed that Student was performing well below average in the areas of fine motor control, manual coordination, fine motor integration, and upper-limb coordination. Student performed below average in the areas of fine motor precision and manual dexterity. P2, p.00301-00302; R-Ex.103, p.0470-0471.
28. Student was observed using an executive functioning checklist and Parent completed an executive functioning checklist<sup>7</sup> regarding Student as well. The observation and checklists reflected that Student had continued difficulty with executive functioning skills. P2, p.00304-00305; R-Ex.103, p.0473-0474.
29. Parent was also given a questionnaire to complete regarding Student's sensory processing, which reflected that Student was typical for most sections of the test but reflected moderate difficulties with [REDACTED] portions of the test. P2, p.00305-00307; R-Ex.103, p.0474-0476.
30. The occupational therapy reevaluation conducted by Private Company did not include any questionnaires sent to Student's teachers or any review of Student's educational records. *See* P2, p.00299-00308; R-Ex.103, p.0468-0480.

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<sup>7</sup> The occupational therapy report noted that the checklist provided for Parent to complete was designed for children aged [REDACTED], which is [REDACTED] Student's age at the time it was given. P2, p.00304; R-Ex.103, p.0473.

31. The occupational therapy reevaluation also recommended that Student continued to receive occupational therapy from Private Company to address the concerns raised in the reevaluation. P2, p.00307-00308; R-Ex.103, p.0479-0480.
32. OT provided occupational therapy consultation services for Student at Home School. OT reviewed the reevaluation and other documents provided from Private Company as part of Student's reevaluation. Testimony of OT, Tr.V4, 593:5-599:19.
33. Based on OT's review of Private Company's reevaluation and other documents and OT's consultations with Student's teachers regarding Student's occupational therapy needs in school, OT did not believe an occupational therapy assessment was necessary for Student's reevaluation. Testimony of OT, Tr.V4, 600:24-601:18.
34. Private Company also provided a speech-language plan of care for Student to receive services from Private Company. P2, p.00312-00315; R-Ex.106, 0487-0489.
35. In May 2025, Student completed an [REDACTED] end-of-course standardized assessment. The results of the assessment reflected that Student scored in the "approaches proficiency" range, which suggested that Student could [REDACTED]  
[REDACTED]  
[REDACTED] P4,  
p.00433.
36. On June [REDACTED] 2025, Student was made eligible for services from the State of Hawai'i [REDACTED] P2,  
p.00321-00334.
37. The [REDACTED] eligibility determination found that Student had difficulties [REDACTED]  
[REDACTED] in the areas of initiating tasks, sustaining attention, lacking

■■■■■ skills, impaired performance speed, inability to begin and/or complete tasks without support, and the impaired ability to follow complex instructions.

P2, p.00322.

38. Student's cognitive assessment was conducted by Prior Psychologist on July ■■■, 2025. Prior Psychologist had previously conducted Student's DOE cognitive assessment in March 2021. P2, p.00335-00343; R-Ex.107, p.0490-0498.
39. Prior Psychologist reviewed Student's previous cognitive assessments from 2013, 2018, 2019, and 2021. Prior Psychologist also reviewed emotional behavioral assessments that were conducted with Student in 2014 and 2016. P2, p.00335-00336; R-Ex.107, p.0490-0491.
40. The results of the March 2021 cognitive assessment reflected that Student had achieved average scores in all areas of the specific tool<sup>8</sup> that was used in the cognitive assessment. P2, p.00337; R-Ex.107, p.0492.
41. For the July 2025 cognitive assessment, Student was also given the KABC-II by Prior Psychologist. The KABC-II is a standardized assessment in which the assessor uses a test kit that includes four stimulus books, a paper protocol, and a scoring protocol. The child taking the assessment does not have to write anything, the child just needs to point to things in the stimulus book, manipulate objects, or verbally state their answer. Every response is recorded on the scoring sheet, which is then put into a website by the manufacturer to get the standard and scaled scores and the percentile ranks. Testimony of Psychologist, Tr.V4, p.534:6-541:10.

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<sup>8</sup> For the 2019 and 2021 assessments, Student was given the Kaufman Assessment Battery for Children, Second Edition, Normative Update (hereinafter "KABC-II").

42. The KABC-II is given in a specific order and there are testing protocols that specify when a test is to be discontinued. The tests and instructions are also read word-for-word to ensure the standardization of the test. Testimony of Psychologist, Tr.V4, 538:5-541:1.
43. The KABC-II provides sufficient information to the DOE regarding the cognitive skills for a student to determine if the student has needs that need to be addressed. The KABC-II and the Wechsler Intelligence Scale for Children, Fifth Edition (hereinafter “WISC-V”) yield similar results as far as providing cognitive abilities, such as verbal comprehension, visual-spatial, fluid reasoning, working memory, and processing speed. The tests just have different names and/or methods for testing those abilities. Both tests are widely recognized as reliable assessments to determine cognitive ability in children. Testimony of Psychologist, Tr.V4, 557:10-558:20.
44. Student scored average in all but one subtest, and while the subtest yielded a score, Prior Psychologist determined that based on the instructions on the KABC-II, the score was noted as not interpretable. P2, p.00338-00341; R-Ex.107, p.0493-0496.
45. The test results were considered not interpretable due to the large difference in the results of the subtests, which usually means that something is not quite right with the results because they are not consistent with what would be expected. Testimony of Psychologist, Tr.V4, 5411:542:9; P2, p.00343-344; R-Ex.107, p.0496-0497.
46. The results of the cognitive assessment by Prior Psychologist indicated that Student had the cognitive skills to academically compete with same-aged peers. Student’s scores all fell within the average<sup>9</sup> range, including the scores on the uninterpretable subtest. Testimony of Psychologist, Tr.V4, 562:16-563:15; P2, p.004; R-Ex.107, p.0496.

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<sup>9</sup> The ranking of average for the KABC-II refers to the normal distribution of the bell curve

47. Student's academic assessment was conducted by SSC on July [REDACTED], 2025. SSC selected the Kaufman Test of Educational Achievement, Third Edition (hereinafter "KTEA-3") as the instrument to assess Student's academic skills because it is a norm-referenced, curriculum-based instruments and provides criterion-referenced information on Student in the areas of reading, mathematics, written language, and oral language. P2, p.00344-00348; R-Ex.108, p.0499-0503; *see* Testimony of SSC, Tr.V3, 350:1-360:2, 473:23-477:22.
48. The KTEA-3 consists of four parts that assess written language, written expression, spelling, and writing fluency. Student scored average in the areas of written language and written expression. Student scored below average in spelling and very low in writing fluency. P2, p.00345; R-Ex.108, p.0500.
49. SSC noted that for the writing fluency test, the test was a timed test that required Student to look at a picture and write a short sentence describing the picture. Student did not begin the test when the time for the test had started and was distracted by Student's desire to complete some math problems that were on the reverse page of the test. SSC noted that once Student was reminded to focus on the test, Student easily provided the sentences required. Student score was low because Student did not complete all of the problems on the test due to being distracted at the beginning and running out of time. Testimony of SSC, Tr.V3, 366:17-368:20, 378:21-379:21, 479:23-481:16; P2, p.00344, 00346-00347; R-Ex.108, p.0499, 0501-0502.
50. On July [REDACTED], 2025, Student received a [REDACTED] Evaluation from the [REDACTED] [REDACTED] program, where Student [REDACTED] for the

summer of 2025. The evaluation was completed by the group leader in charge of Student. P2, p.00350.

51. The [REDACTED] Evaluation noted that Student's strengths included asking staff if help is needed and taking initiative. Recommendations for Student's performance stated that Student needed work on accepting tasks without argument, watching Student's tone [REDACTED] [REDACTED] participants, staying on task, knowing Student's count, and understanding that there is a time and a place for questions. P2, p.00350.
52. Student received a physical therapy evaluation from Private Company on August [REDACTED], 2025. The physical therapy assessment indicated that Student had functional weakness due to not being able to complete age-appropriate tasks such as push ups, sit ups, and riding a bicycle without training wheels). The report also noted that Student has impaired range of motion, strength, balance, and coordination. The report recommended that Student receive physical therapy from Private Company [REDACTED] a week for the next [REDACTED] months. P2, p.00351-00355; R-Ex.109, p.0504-0508.
53. PT reviewed the physical therapy evaluation from Private Company as part of Student's reevaluation to determine whether a physical therapy evaluation would be needed as part of determining Student's eligibility under IDEA. PT also gathered information from Student's teachers and [REDACTED] coach to make PT's determination. Based on the review of the evaluation and the other information, PT determined that an additional physical therapy evaluation was not necessary for purposes of determining Student's eligibility. Testimony of PT, Tr.V5, 742:4-747:9.
54. The classroom observation for Student's reevaluation was conducted on August [REDACTED], 2025 in Student's ELA class. Student was observed to be engaged and focused in class and

work throughout the observation period; Student was able to locate information and assignments within the digital Google classroom platform; Student followed routines and class expectations; and Student responded to class visuals with socially appropriate cues.

Testimony of SST, Tr.V5, 704:8-708:17; P2, p.00357; R-Ex.110, p.0509.

55. During that ELA class, the students listened to an audiobook during the class while following along with written materials that were provided to them. No writing assignments were being worked on in that class period. As a result, another observation was conducted to observe Student in ELA while Student was working on a writing assignment, due to Student's primary needs being in written expression. Testimony of SST, Tr.V5, 704:8-708:17, 729:20-730:20; P2, p.00357, R-Ex.110, p.0509.
56. The second classroom observation of Student was conducted on September █, 2025 in Student's █ class. Student was observed to express social interactions with peers that followed group norms of the classroom; was able to follow instructions with no prompting from teachers; and was able to complete the written tasks for the class period with little to no prompting by the teachers. Testimony of SST, Tr.V5, 708:18-710:18; P2, p.00366; R-Ex.112, p.0518.
57. On that observation day, the students in class worked on a group reading and review project and were later given a written quiz in class. Student participated in the group project as expected with Student's peers and proceeded to study for the quiz during the time allotted. Student was able to complete the quiz that contained ten multiple choice questions and two short answer questions. Student was able to produce the appropriate short answer responses in writing for that portion of the quiz during the time allotted by

the teacher for the quiz. Student received an [REDACTED] grade on the quiz. Testimony of SST, Tr.V5, 708:18-710:18; P2, p.00366; R-Ex.112, p.0518.

58. Student's speech-language assessment was conducted by SLP on August [REDACTED], 2025. As part of the assessment, SLP reviewed speech-language assessments that were conducted by both the DOE and private providers from 2013, 2018, 2020, and two in 2024. Testimony of SLP, Tr.V7, 964:5-969:23; P2, p.00359-00360; R-Ex.111, p.0511-0512.
59. During the testing session, SLP observed that Student sometimes spoke in a soft tone and at a fast rate of speech. Student was initially provided a verbal cue to correct the tone and pace of Student's speech, but toward the end of the session, SLP observed that Student was able to self-correct independently without any prompts. Testimony of SLP, Tr.V7, 970:2-976:14; P2, p.00360; R-Ex.111, p.0512.
60. Two standardized instruments were used for the speech-language assessment; the Test of Narrative Language-Second Edition (hereinafter "TNL-2") and the Clinical Evaluation of Language Fundamental Fifth Edition (hereinafter "CELF-5"), which was a teacher observation scale. P2, p.00360; R-Ex.111, p.0512.
61. The TNL-2 is a standardized test that was used to assess Student's ability to comprehend and tell three types of stories: scripts, personal narratives, and fictional narratives. Student received an overall score of average and performed above average on one subtest and below average on the second subtest. Testimony of SLP, Tr.V7, 977:1-985:12; P2, p.00361; R-Ex111, p.0513.
62. The CELF-5 information was gathered from six of Student's teachers in the areas of math, science, ELA, [REDACTED]
- Common concerns that arose amongst the teachers were that Student "often" had trouble

staying on topic; thinking of the right word to say; getting to the point; expressing thoughts; talking in short, choppy sentences; having conversations with someone and answer questions that people asked; answering questions as quickly as other students; describing things or expanding answers to provide details when talking; and explaining things in a different way when someone did not understand the first explanation.<sup>10</sup>

Testimony of SLP, Tr.V7, 985:13-990:18; P2, p.00361-00362; R-Ex.111, p.0513-0514.

63. None of Student's teachers expressed any concerns for Student's listening comprehension skills. Student's narrative comprehension skills (the ability to listen to a story and answer both literal and inferential comprehension questions) were in the above average range. P2 p.00362; R-Ex.111, p.0514.
64. For Student's narrative production skills, Student demonstrated the best ability in the narrative production of a script (retelling a story that was read aloud to Student); but had difficulty with narrative production where Student needed to create a story, by not including enough details to enrich the story across beginning, middle, and end. Student also had difficulty across narrative production with forming a conclusion for the story. P2, p.00363; R-Ex.111, p.0515.
65. Based on the speech-language assessment, SLP determined that Student is able to engage in functional communication in the school setting and with the supports for Student that are already in place, Student can be successful in the classroom. Testimony of SLP, Tr.V7, 996:22-998:24.

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<sup>10</sup> Due to the timing of this assessment, the information gathered from the teachers would have been based on their observations of Student during the 2024-2025 school year. Testimony of SPED, Tr.V6, 862:6-863:23.

66. Student completed an end-of-course assessment for [REDACTED] on May [REDACTED], 2026.<sup>11</sup> Student's assessment revealed that Student's performance level was in the 'standard met' range, which means that the student has met expectations in applying the core ideas of [REDACTED]  
[REDACTED]  
[REDACTED] This score also reflected that Student demonstrates scientific literacy, the ability to engage in discussions of science-related issues, and to continue to learn science throughout their life. P4, p.00434; R-Ex.113, p.0520-0521.

Student's grades, progress and other reports for 2024-2025 and 2025-2026 school years

67. For the 2024-2025 school year, Student received six [REDACTED] and two [REDACTED] for Student's end-of-year grades. [REDACTED]  
[REDACTED] P9, p.00742.
68. During summer school in 2025, Student was in SST's [REDACTED]  
[REDACTED] classes. During those classes, Student completed written assignments that were provided to all students in the class and graded comparably to the general education students in class.<sup>12</sup> Testimony of SST, Tr.V5, 702:6-703:22.
69. Student received an [REDACTED] grade for [REDACTED] during the 2025 summer school program. R-Ex.121, p.0535.

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<sup>11</sup> This Hearings Officer notes that this assessment was completed after the eligibility determination, but is relevant for background as to Student's performance in the grade-level general education curriculum.

<sup>12</sup> Student's assignments during SST's summer school classes were not modified. Testimony of SST, Tr.V5, 703:16-22.

70. On October 31, 2025, Student's first quarter progress reports and data were provided to Parent. P39, p.03755-03904; R-Ex.155, p.0727-0876; *see also* P11, p.00781-00789.
71. Student's progress report reflected that Student had mastered one of Student's objectives for the first quarter and was either making progress or showing emerging skills in the other first quarter objectives in Student's IEP-07/14/2025. P11, p.00781-00789; R-Ex155, p.0728-0737.
72. Parent was provided copies of the actual assignments that SPED used to complete the IEP progress report for the first quarter. R-Ex.155, p.0738-0876.
73. In November 2025, Student reached out to Student's science teacher to ask questions regarding a writing assignment to ensure that Student was on the right track. Student's science teacher provided feedback the next day to assist Student in completing the writing assignment. R-Ex.159-160, p.0882-0883.
74. Student demonstrated the ability to reach out to teachers regarding questions or clarifications for other assignments throughout the school year. *See* R-Ex.174, p.0926-0928; R-Ex.175-176, p.0929-0930; R-Ex.182, p.0938;
75. Student participated as a member of the [REDACTED] team for the fall of the 2025 school year. While participating on the [REDACTED] team, Student did not demonstrate any needs in the area of physical therapy. Student [REDACTED]; did not have any balance or coordination issues; was able to make appropriate adjustments when needed to pick up [REDACTED]; was able to participate in drills and skill building activities; had appropriate conversations and interactions with peers on the team; and followed proper [REDACTED] etiquette [REDACTED]. Testimony of VP, Tr.V3, 271:16-273:20; R-Ex.143, p.0705.

76. Student completed an in-school screening test (iReady diagnostic test) for reading in December 2025. The scores reflected that Student's reading was in the early [REDACTED] grade and [REDACTED] grade levels at the time of the test. R-Ex.164, p.0893-0894.
77. On January 15, 2026, Student's IEP progress report was provided to Parent for the second quarter. R-Ex.170, p.0904-0916; *see also* P11, p.00790-00801.
78. The second quarter progress report reflected that Student had mastered five of the second quarter objectives in the IEP-07/14/2025 and was making progress or showing emerging skills in the remainder of the objectives. P11, p.00790-00801; R-Ex.170, p.0905-0916.
79. For the progress report codes, SPED used the codes as follows: emerging skills reflected that Student had begun demonstrating the skill but had not had enough opportunities to show progress or still needed a high level of support to demonstrate the skill; progressing meant that during the quarter there were many opportunities to demonstrate the skill but Student had not met the proficiency that was specified in the objective; and mastery meant that Student demonstrated the proficiency level indicated in the objective. Testimony of SPED, Tr.V6, 896:1-897:4.
80. On March 31, 2026, Student's IEP progress report was provided to Parent for the third quarter. P40, p.03905-03920; R-Ex.193, p.0965-0980; *see also* P11, p.00802-00816.
81. The third quarter progress report reflected that Student had mastered eight of the third quarter objectives and was making progress on the remaining eight objectives. P11, p.00802-00816; R-Ex.193, p.0966-0980.

82. Parent thereafter requested the data<sup>13</sup> for the third quarter progress report on April 2, 2026, and these documents were provided by VP on April 8, 2026. R-Ex.194, p.0981-0983; R-Ex.195, p.0984-1167.
83. On June 8, 2026,<sup>14</sup> Student's fourth quarter progress report and data<sup>15</sup> were provided to Parent. R-Ex.246, p.1396-1586; *see also* P11, p.00817-00833.
84. Student's fourth quarter progress reports reflected that Student had mastered all but three objectives for the fourth quarter in Student's IEP-07/14/2025. Student also demonstrated progress in the remaining three objectives. P11, p.00817-00833; R-Ex.251, p.1607-1623.
85. SPED provided Student with the ninety minutes of special education in Student's IEP-07/14/2025. This would occur in different ways, such as Student meeting with SPED during a work period that all students were given; SPED providing guidance and assistance in the ELA inclusion classroom during class; reviewing Student's work to provide guidance, assistance, and suggestions on ways to improve Student's writing assignments; or, on occasion, suggesting that Student continue with work on another day if Student appeared fatigued or was having more difficulty than usual. Testimony of SPED, Tr.V6, 813:3-816:14, 818:2-820:1, 826:1-4, 868:5-873:19.
86. SPED would provide accommodations to Student, such as a small group setting for testing, setting up meetings with Student for extended time on writing assignments, and

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<sup>13</sup> This data included copies of the actual assignments and Student's work that was used by SPED to complete the progress reports. This is similar to the data provided with the first quarter progress reports. R-Ex.195, p.0986-1167.

<sup>14</sup> This Hearings Officer notes that this email and its contents are outside of the date limitations for this due process hearing, however the exhibit was admitted to provide completed information of Student's performance at school for the remainder of the 2025-2026 school year, some of which was within the specified time limits.

<sup>15</sup> This data consisted of the copies of the actual work or assignments that SPED used to complete the progress report.

ensuring that Student had access to a computer for class. Testimony of SPED, Tr.V6, 845:8-846:25.

87. SPED observed that Student's confidence and maturity levels had increased, along with Student's ability to stay focused on the task at hand. Student was observed being comfortable working with group members, keeping them on task, and asking questions when necessary. Testimony of SPED, Tr.V6, 847:1-848:22.
88. SPED kept a portfolio of Student's ELA assignments with revision history to document Student's growth and complete Student's IEP progress report at the end of the quarter. Testimony of SPED, Tr.V5, 825:1-13, 832:4-835:16, 836:10-840:12, 885:2-890:14.
89. SPED observed that the skills that Student was still developing by the end of the 2025-2026 school year were the same skills as the general education peers would be developing at that time. Student has also been able to internalize the skills that were previously developed using the specially designed instruction that was provided and has developed foundational skills that Student would need to progress in the general education class. Testimony of SPED, Tr.V6, 902:5-15, 905:12-25, 906:14-25.
90. In the fourth quarter of the 2025-2026 school year, Student had a writing assignment in ELA that Student was very interested in, so Student was very engaged in that assignment, which was a big writing project. Based on Student's level of engagement, Student needed less supports for the fourth quarter ELA writing project, as compared to the third quarter ELA writing project, where Student was not as interested in the assignment. Testimony of GET, Tr.V5, 645:22-648:22.

91. Student was very vocal about asking questions in ELA and was provided as much time and support as needed in ELA for the 2025-2026 school year when GET was Student's teacher. Testimony of GET, Tr.V5, 647:25-649:10.
92. GET also provided Student with the use of a computer for all Student's writing assignments, which included the use of spelling and grammar assistance; digital copies of materials that were written on a board in class; alternative methods of demonstrating knowledge of the subject; and small group settings for certain "high-stakes" assignments. Testimony of GET, Tr.V5, 649:11-659:14.
93. In class, Student was able to communicate with others and did not have difficulty understanding what others were saying, and was able to express Student's thoughts or answers appropriately. Student enjoyed participating in class and excelled in group projects. Testimony of GET, Tr.V5, 668:23-670:6, 677:25-679:21.
94. For ELA, Student was given the same (unmodified) assignments as the general education students in class and was graded using the same rubrics. Testimony of GET, Tr.V5, 676:12-19, 680:1-684:17, 689:7-25.
95. For the 2025-2026 school year, Student was in HT's general education [REDACTED] class. HT's class format was to provide the lesson through lecture, then assign individual or group assignments between the lectures to reinforce what was taught. During lecture portions of the class, Student was observed following along with the subject matter and asking any questions if Student did not understand or needed clarification on a part of the lesson. HT did not provide specially designed instruction to Student in HT's class but did provide Student with accommodations when requested. Testimony of HT, Tr.V5, 772:3-774:20, 775:13-776:10, 782:8-10.

96. One of the accommodations included in Student's IEP-07/14/2025 was graphic organizers for Student's writing assignments. While Student was provided this accommodation, HT noticed that by the third quarter, Student was able to complete writing assignments without the accommodation because Student was independently incorporating it into Student's learning process. Testimony of HT, Tr.V5, 782:11-784:24, 785:18-786:2.
97. For group assignments, Student's group would sometimes engage in an activity or create charts to explore positive and negative aspects of the topic the class was reviewing and then come back together as a class to discuss what the different groups came up with. Student easily participated in the group work, often taking the lead to keep the group on track. Testimony of HT, Tr.V5, 776:11-777:22.
98. Student's individual assignments were usually written assignments where Student would need to answer a question that was in the lecture, which entailed thinking about the response and write a response, before the class gathered back together to discuss their responses. Testimony of HT, Tr.V5, 774:21-775:5.
99. HT would also assign quizzes and writing assignments to the class. HT's quizzes were all hand-written and Student did not have any difficulty completing the quizzes in class. Student performed well on HT's quizzes. Student did not demonstrate any more difficulty with the quizzes or writing assignments than the general education students in class. Student received [REDACTED] grades on the writing assignments that were given in HT's class for the 2025-2026 school year. Testimony of HT, Tr.V5, 778:18-782:7, 789:9-791:23.
100. For the 2025-2026 school year, Student earned [REDACTED] in [REDACTED]  
[REDACTED]

Student earned a [REDACTED] grade in [REDACTED]  
[REDACTED] P18, p.1272; R-Ex.252, p.1624-1625.

101. Student's teachers would input Student's assignments and grades into a computer program called "Infinite Campus," where Student, and anyone granted access including Parent, could review Student's progress on homework assignments, quizzes, and tests on a daily/weekly basis. No comparable system exists for the review of IEP progress data. Testimony of GET, Tr.V5, 635:5-637:3, P23, p.01956, 1967, P24, 2434.

Student's reevaluation from July 2025-April 2026

102. Prior to July 2025, Student's IEP team had conducted reevaluations involving eligibility meetings for Student in 2021, 2022, and 2024. At a March 2024 eligibility meeting, the team determined that Student continued to remain eligible for special education and related services under the category of [REDACTED] See P19, p.1433-1504.
103. In May 2025, Parent requested another reevaluation be conducted with Student based on the fact that some of the DOE's assessments were nearly three years old. See P19, p.1433-1504.
104. In July 2025, Student's special education team held an SFT meeting to determine what, if any, assessments would be necessary for a reevaluation of Student. The team noted that additional data was needed to determine if Student: a) continues to have a disability and the educational needs of Student; b) the present levels of academic achievement and

related developmental needs of Student; c) whether Student continues to need special education and related services; and d) whether any additions or modifications to the special education and related services are needed to enable Student to meet the measurable annual goals set out in the IEP of Student and to participate, as appropriate, in the general education curriculum. P6, p.00529-00531; R-Ex.8, p.0032-0034.

105. During the meeting, the team discussed Student's last cognitive assessment was in March 2021 as an [REDACTED], but Student's cognitive development might be different now that Student was in [REDACTED] [REDACTED]. The team determined that a new cognitive assessment would be appropriate based on that discussion. P6, p.00529-00531; R-Ex.8, p.0032-0034.
106. The team also considered an academic assessment in the area of written expression, based on Student's [REDACTED]. The team determined that a new academic assessment was appropriate to get updated information on Student's academic needs. P6, p.00529-00531; R-Ex.8, p.0032-0034.
107. A speech-language assessment was considered by the team based on Parent providing the team with speech-language assessments conducted by a private company. The speech-language assessment was to include a file review of the private speech-language assessments, informal assessment, and a standardized assessment if one was deemed necessary by the speech-language pathologist. P6, p.00529-00531; R-Ex.8, p.0032-0034.
108. The team also determined that a classroom observation would be conducted by a school staff member. The observation was to be focused primarily on Student's [REDACTED] [REDACTED], but would note any behavioral observations to address Parent's concerns about Student's behavior. P6, p.00529-00531; R-Ex.8, p.0032-0034.

109. The team had also discussed Parent's request for additional assessments, including an adaptive assessment, and emotional behavior assessment, and a classroom observation by a private board-certified behavior analyst at Parent's expense. P6, p.00529-00531; R-Ex.8, p.0032-0034.
110. The team determined that an adaptive assessment was not necessary, as the concerns that were raised by Parent requiring an adaptive assessment were not observed in school and did not have any impact on Student's education or classroom performance. P6, p.00529-00531; R-Ex.8, p.0032-0034.
111. The team did not approve an emotional behavior assessment because Student's teachers all indicated that Student did not display any behaviors in school that affected Student's ability to participate in the general education setting. The team also reviewed Student's self-reported school survey results, which indicated that Student had 'medium' strengths in the areas of growth mindset, self-management, and social awareness. P6, p.00529-00531; R-Ex.8, p.0032-0034.
112. The team also did not approve of the request for the private board-certified behavior analyst to observe Student in school because the classroom observation for [REDACTED] [REDACTED] would also include any behavioral observations that were observed. P6, p.00529-00531; R-Ex.8, p.0032-0034.
113. As part of the SFT meeting, the team reviewed Student's previous IEP and progress reports, standardized reading and math scores, prior assessments, evaluations, and other information provided by Parent, Student's self-reported survey results, teacher input, and counselor input. P6, p.00529-00531; R-Ex.8, p.0032-0034.

114. While Parent disagreed with the results of the SFT regarding the refused assessments and observation, the rest of the team believed that the assessments that were going to be conducted would provide the team with information from which the team could then determine Student's continued eligibility for special education and related services, and any academic or related needs for Student. Testimony of CC, Tr.V6, 920:21-924:18.
115. On September 5, 2025, VP emailed the assessment results and other eligibility conference documents to Parent for Parent's review prior to the meeting on September 11, 2025. The email attachments included: the July [REDACTED], 2025 cognitive assessment; the November 2022 psychological evaluation; the July [REDACTED], 2025 academic assessment; Student's work samples; the two observation reports completed by SST; the August 2025 speech-language assessment; the February 2025 occupational therapy reevaluation report from Private Company and the accompanying treatment plan; the August 2025 physical therapy evaluation by Private Company; several applied behavior analysis assessments and treatment plans provided to Home School by Parent; a July 2024 speech-language assessment; [REDACTED]; Student's 2024-2025 school year report card; and the conference announcement and agenda. P9, p.00596-00746.
116. On September 11, 2025, Student's team met to review the cognitive assessment that was conducted by Prior Psychologist. After Prior Psychologist reviewed the results of the cognitive assessment, each of Student's teachers at the time discussed how the findings and results were related to their course. P6, p.00532-00534; R-Ex.13, p.0040-0042.
117. Parent had concerns about a specific subtest score that Student received during the cognitive assessment and Prior Psychologist explained that the score was still in the

average range and Student's teachers noted that the score did not reflect any issues that Student was having in class. P6, p.00532-00534; R-Ex.13, p.0040-0042.

118. Another meeting was held on September 19, 2025 as part of Student's reevaluation and eligibility process. At the September 19, 2025 meeting, the team discussed the academic assessment conducted by SSC and the classroom observations that were conducted by SST. P6, p.00535-00536; R-Ex.17, p.0047-0048.

119. During the meeting, Parent expressed numerous concerns regarding Student's performance on the academic assessment, particularly the spelling and writing fluency portions of the test where Student scored lower. Parent also expressed concerns and inquired regarding Student's performance in the classroom and the observations that were conducted. Student's teachers provided information to Parent and SSC and SST both explained their respective assessments and observations to address Parent's concerns and inquiries. P6, p.00535-00536; R-Ex.17, p.0047-0048.

120. Parent requested that Student be given an additional writing fluency assessment since Student's score was poor on the academic assessment. The rest of the team declined to provide the additional test, noting that the results of Student's subtest demonstrated that Student was able to perform the task once Student started, but that Student was simply distracted at the start of the test, which resulted in the lower score. The team also noted that other sources of data would provide sufficient information regarding Student's writing fluency needs, if any. P6, p.00535-00536; R-Ex.17, p.0047-0048.

121. During the September 11 and 19, 2026 meetings, HT was able to provide information to the team regarding Student's performance in class to address concerns about some cognitive assessment and academic assessment results. HT told the team that Student

appeared understand what was being presented during lectures and that Student had begun incorporating some of Student's accommodations into Student's own learning, so that the accommodation was not necessary. Testimony of HT, Tr.V5, 783:25-791:23.

122. The eligibility process continued with another meeting on September 26, 2025, where the team continued the discussion regarding Student's academic assessment. Parent continued to raise concerns regarding Student's writing fluency assessment score and whether it affects Student's work in the classroom. Each of the teachers provided information on Student's abilities to write and complete assignments in class. P6, p.0057-00538; R-Ex.21, p.0053-0054.
123. Another meeting was held on October 24, 2025 where the team reviewed writing samples provided by Student's English Language Arts (hereinafter "ELA") teacher. The team also reviewed the speech-language assessment conducted by SLP. P6, p.00539-00540; R-Ex.25, p.0059-0060.
124. Student's teachers provided information regarding Student's writing in their respective classes. Each of the teachers noted that while Student has areas for improvement, Student is able to complete assignments, ask for assistance or ask questions for clarification if needed, and perform writing tasks on par with Student's grade-level peers. P6, p.00539-00540; R-Ex.25, p.0059-0060.
125. Student's [REDACTED] grade science teacher spoke to the team about Student's ability to analyze data in [REDACTED] and translate those ideas into clear analytical prose. Student's [REDACTED] [REDACTED] writing teacher discussed Student's ability to handle all writing

assignments that were given in both classes<sup>17</sup> to produce final work that met the expectations of the courses. Testimony of SPED, Tr.V6, 805:16-807:9.

126. SLP discussed Student's private speech-language assessments and provided information on the assessment that SLP conducted with Student. SLP provided an overall review of Student's performance, noting that Student was able to engage in conversations, while sometimes needing reminders to increase volume and monitor speech rate; Student had above average listening comprehension scores; and that Student's minimal needs in speech-language could easily be addressed by the accommodations that Student currently has in place. Testimony of SLP, Tr.V7, 998:25-1003:1; P6, p.00539-00540; R-Ex.25, p.0059-0060.
127. Parent did not express any concerns at the meeting about the speech-language assessment at the October 24, 2025 meeting. P6, p.00539-00540; R-Ex.25, p.0059-0060.
128. The next meeting was held on December 16, 2025, where the team reviewed the occupational therapy report, the physical therapy report, some of Student's standardized assessments, Student's report cards, and Student's IEP progress reports. P6, p.00541-00543; R-Ex.29, p.0065-0067.
129. OT provided the team with information regarding the private occupational therapy reports that had been conducted with Student, as well as the treatment plans that were currently in place for Student at the private centers. The teachers provided information regarding concerns that were noted in the occupational therapy reports and noted that Student did not demonstrate any occupational therapy concerns that affected Student's

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*See* P18, p.1272.

ability to participate in school. The teachers also provided information about the accommodations that Student currently had in place that addressed any possible occupational therapy needs Student may have. Testimony of OT, Tr.V4, 601:24-606:8; P6, p.00541-00543; R-Ex.29, p.0065-0067.

130. PT reviewed the current data that the team had for Student regarding Student's ability to participate in daily school functions and determined that Student did not need an additional physical therapy evaluation and did not need physical therapy to access Student's education at school. Testimony of PT, Tr.V5, 747:10-749:4, P6, p.00541-00543; R-Ex.29, p.0065-0067.
131. The team reviewed in-school assessments that Student completed for ELA and math. Student performed at a higher grade level on the reading assessment, and while Student's reading level score was lower than Student's current grade, the teachers noted that Student did not demonstrate any difficulty with reading grade-level materials in school. P6, p.00541-00543; R-Ex.29, p.0065-0067.
132. Student's math assessment demonstrated that Student scored at a higher grade level and Student's math teacher noted that Student did not have any difficulties in math. P6, p.00541-00543; R-Ex.29, p.0065-0067.
133. The team reviewed Student's report cards from the previous school year and noted that Student received grades of ■ and ■. When Parent inquired about what the ■ grade meant in terms of Student's performance at grade level, the teachers informed Parent that the ■ grade reflected Student's performance at meeting classroom expectations, which included grade-level standards. Student's ELA teacher noted that with the

accommodations that Student has in place, Student is often able to write better than Student's general education peers. P6, p.00541-00543; R-Ex.29, p.0065-0067.

134. The team also reviewed Student's IEP progress reports. Since Student's goals and objectives were focused on [REDACTED], SPED shared baseline data and data points demonstrating Student's progress on the individual goals and objectives with the team. HT also provided information about Student's writing in history class, noting that Student is able to use the graphic organizers to plan and clarify thoughts before starting a writing project and that HT noticed that Student has begun incorporating those organizers into Student's own mental workflow, which demonstrated that Student may no longer need that as an accommodation. P6, p.00541-00543; R-Ex.29, p.0065-0067.
135. At the December 16, 2025 meeting, Parent raised a concern over an accommodation that Student was to receive and a discussion of an IEP review meeting was held. VP inquired whether Parent wanted an IEP review meeting but indicated that they would have to do the meeting separately, as it was not part of the eligibility process that they were undergoing. Parent did not respond directly to VP and did not follow up with any team members regarding scheduling an IEP review meeting. Testimony of VP, Tr.V2, 267:3-270:18.
136. The reevaluation/eligibility proceed continued with another meeting on February 19, 2026, where the team sought to review all the evaluation data and discuss Student's continued eligibility for special education and related services. At this meeting, Parent raised many questions to the team regarding Student's abilities, needs, and performance in the classroom. Parent also questioned Student's ability to master goals and objectives by the end of the school year and questioned whether there were tools that Student could

realistically use independently in [REDACTED] to allow Student to function well in those settings. P6, p.00544-00546; R-Ex.33, p.0072-0074.

137. Student's teachers provided information and addressed Parent's inquiries during the meeting and discussed Student's work, performance in their respective classrooms, and the accommodations that Student was currently learning to use independently to complete necessary work. The teachers also noted Student's ability to self-advocate and ask questions or ask for assistance if needed. P6, p.00544-00546; R-Ex.33, p.0072-0074.
138. The team also discussed the possible eligibility categories that the team would review for Student's continued eligibility for special education and related services. The team sought to review the eligibility categories of [REDACTED] and [REDACTED] [REDACTED] to address Student's diagnoses. Parent disagreed with the team and requested that the category of [REDACTED] be reviewed as the first eligibility category for Student. The team went along with Parent's request. P6, p.00544-00546; R-Ex.33, p.0072-0074.
139. The next meeting was held on March 5, 2026, where the team reviewed the specific eligibility categories under which Student could qualify for special education and related services. The team only had time to review the [REDACTED] category and had to continue the review of the [REDACTED] category to the next meeting. Testimony of SPED, Tr.V6, 863:24-864:7; P6, p.00547-00549; R-Ex.37, p.0079-0081.

140. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Testimony of SPED, Tr.V6, 840:13-842:1; Testimony of CC, Tr.V6, 930:24-939:10;

Testimony of SLP, Tr.V7, 1009:6-1013:24; P6, p.00547-00549; R-Ex.37, p.0079-0081.

141. On March 25, 2026, the continued [REDACTED] eligibility category discussion was held. The team was also able to discuss Student's eligibility for the [REDACTED] category. While the teachers provided input regarding Student's performance for each concern [REDACTED] [REDACTED], Parent raised numerous concerns. Parent's concerns were primarily based on the few low scores that Student attained on the various assessments, information from a 2022 neuropsychological evaluation that was given while Student was younger and in a different school setting, Parent's disagreement with Student's [REDACTED] grades reflecting Student's actual performance in school, and Student's fatigue that had been noted in a few of Student's assessments. P6, p.00550-00554; R-Ex.41, p.0086-0090.
142. By the conclusion of the meeting, the rest of the team members, besides Parent, agreed that Student did not meet the eligibility criteria for [REDACTED] or [REDACTED] P6, p.00550-00554; R-Ex.41, p.0086-0090.
143. The final eligibility meeting was held on April 20, 2026. During this meeting, the team discussed the eligibility categories of [REDACTED] [REDACTED]. The team again went through the criteria for each of the eligibility categories, with teachers providing information regarding the criteria and addressing Parent's concerns raised regarding Student's eligibility under those categories. Testimony of SLP, Tr.V7, 1013:25-1020:25; P6, p.00555-00559; R-Ex.46, p.0104-0108.
144. Parent requested that additional assessments be conducted with Student, specifically for semantics and grammar, but Student's teachers noted that Student does not have particular concerns or needs in those areas to warrant an assessment. Parent also

requested that the school develop a behavior support plan for Student, but the teachers also noted that Student does not demonstrate any behaviors in school that affects Student's performance in the classroom. P6, p.00555-00559; R-Ex.46, p.0104-0108.

145. At the April 20, 2026 meeting, the team (except for Parent) agreed that Student was not eligible under either the [REDACTED] categories. Since Student was not eligible under the categories that the team believed were appropriate, the determination was made that Student was no longer eligible for special education and related services. P6, p.00555-00559; R-Ex.46, p.0104-0108.
146. While Home School typically does not provide PWNs for meetings that have been continued or where no final actions or decisions were made, for Student's case, Home School prepared a PWN for each meeting that occurred during Student's reevaluation and eligibility process. Each of the PWNs documented the discussions that were held at the meetings, since Parent declined Home School's request to record the meetings. *See* Testimony of SPED, Tr.V6, 842:24-843:19, 857:12-19; Testimony of CC, Tr.V6, 926:24-929:8.
147. At all ten of the eligibility meetings, Home School had the required personnel present to participate in the meetings. When VP was absent at the March 25, 2026 meeting, BHS received permission from Home School's principal to attend the meeting as the administrative designee for that meeting. *See* Testimony of VP, Tr.V3, 295-296:21; Testimony of BHS, Tr.V4, 489:9-493:10.
148. At the April 20, 2026 meeting, the team offered Parent an initial evaluation for Student under Section 504, but Parent declined to set a meeting at that time and told the school

that Parent would follow up with the school at a later time. Testimony of BHS, Tr.V4, 497:21-498:18; P6, p.00555-00559; R-Ex.46, p.0104-0108.

149. On April 20, 2026, BHS initiated a Section 504 evaluation for Student and Home School sent the request for Section 504 evaluation and a Section 504 written notice to Parent relating that since Student was determined not to be eligible for special education and related services under the IDEA, the school wanted to proceed with the Section 504 evaluation to create a plan for Student. P25, p.02544-02545; R-Ex.48-49, p.0111-0112.
150. On April 20, 2026, Parent sent an email to VP requesting an evaluation for purposes of developing a Section 504 plan for Student. VP responded on April 21, 2026 requesting that Parent provide dates and times that Parent is available for a meeting. P26, p.02546-02547.
151. On April 28, 2026, Home School sent Parent two prior written notices (hereinafter “PWN”); one that reflected the determination made at the April 20, 2026 meeting, and the second that indicated that Student’s special education and related services would conclude on May █ 2026. The completed evaluation summary report of the reevaluation was also sent to Parent at that time. P6, p.00560-00561; R-Ex.47, p.0109-0110; R-Ex.209, p.1198-1214.
152. The evaluation summary report reflected all assessments that were conducted by the DOE as part of the reevaluation for Student, as well as the discussions that the team had regarding each eligibility category that was considered for Student. P5, p.00516-00524; R-Ex.211, p.1199-1207.
153. On April 29, 2026, Parent emailed Home School and informed them that Parent was still awaiting documents that Parent wanted before having the evaluation meeting.

Specifically, Parent stated that Parent had not received the “Re-evaluation [REDACTED] [REDACTED] document,” and wanted that document before proceeding with the Section 504 evaluation process. P26, p.02549-02550; R-Ex.210, p.1215-1218; *see also* R-Ex.50, p.0113.

154. On April 30, 2026, Home School responded and informed Parent that the “Re-evaluation [REDACTED] document” was not a required document and is not usually generated or provided to parents, but that since Parent was requesting it, Home School would generate the document and provide it to Parent. R-Ex.211, p.1219.
155. As part of their response, Home School also sent notice to Parent indicating that it was withdrawing the Section 504 request for evaluation and noted that the school would be waiting for Parent to notify Home School that Parent is ready to proceed with the evaluation. An interim student support action plan for Student to be utilized for the remainder of the school year was sent to Parent along with the other documents. P25, p.2543; R-Ex.50, p.0113; R-Ex.211, p.1219-1229.
156. The interim student support action plan for Student provided Student with the identical supplementary aids and services, program modifications and supports for school personnel that were included in Student’s IEP-07/14/2025. Testimony of VP, Tr.V3, 273:21-275:7; *also compare* P10, p.00774-00776; R-Ex.68, p.0167-0169; *with* R-Ex.211, p.1228-1229; *see also* R-Ex.277, p.1677-1678.
157. The “Re-Evaluation [REDACTED] document” was provided to Parent by VP on May 4, 2026. P5, p.00525-00528, P25, p.02254; R-Ex.214, p.1242-1246.
158. On May 4, 2026, Home School received a request for evaluation for Student from Parent. P25, p.02539; R-Ex.51, p.0114.

### Section 504 SFT meeting

159. A SFT meeting was held on May 5, 2026 for Student's Section 504 evaluation. During the meeting, the team discussed the purpose of a Section 504 evaluation and what the team would be looking for information regarding a Section 504 plan. BHS prepared slides with information regarding Section 504 requirements and eligibility considerations that the team used to guide the Section 504 discussions. Testimony of BHS, Tr.V4, 506:8-520:21.
160. The team discussed major life activities that could be affected by Student's disabilities and how they could be present in the school setting for which Student would likely need accommodations. The team also discussed the current data that the team had based on Student's recent IDEA reevaluation, as well as feedback from the Student that BHS had provided to the team. Testimony of BHS, Tr.V4, 513:2-515:9.
161. The team then discussed whether they needed any additional information to determine Section 504 eligibility for Student. Parent requested that the team consider additional assessments for adaptive skills and speech-language. After a discussion about the request, the team determined that the adaptive skills and speech-language assessments were not necessary for a Section 504 eligibility determination. Testimony of BHS, Tr.V4, 518:10-520:21; R-Ex.56, p.0131.
162. On May 7, 2026, Petitioners filed the instant Request for Impartial Due Process Hearing. R-Ex.216, p.1260-1275.

### Records requests

163. On July 31, 2025, Parent made a records request under the Uniformed Information Practices Act (hereinafter “UIPA”) for records related to Student from the DOE. P43, p.05324-05327.
164. On August 6, 2025, Parent went to Home School to inspect Student’s records that Home School made available for review. P44, p.05350, p.05356.
165. On August 17, 2025, Parent made another records request under the UIPA for records related to Student from the DOE. P44, p.05441-05444; R-Ex.133, p.0606-0609.
166. On August 18, 2025, the DOE informed Parent that the records were being gathered for the records request and Parent would be notified when they were ready. The records were provided to Parent on August 25, 2025 and September 26, 2025. P44, p.05449-05456, 05465-05472; P45, p.07499-07504.
167. On August 28, 2025, Parent made a request to VP regarding a records under 34 C.F.R. §300.616, and VP responded to Parent on September 5, 2026. P38, p.03743-03745.
168. On September 7, 2025, Parent made records requests under UIPA and the Family Education Rights and Privacy Act (hereinafter “FERPA”). P38, p.03746-03751; P45, p.07462-07466.
169. VP responded to Parent’s records request on September 9, 2025. P38, p.03752-03754.
170. On April 2, 2026, Parent submitted a records request to VP regarding Student’s third quarter progress report. P40, p.03921-03938.
171. On April 8, 2026, VP provided the data that Parent had requested regarding Student’s third quarter progress report. P40, p.03939-04122.
172. On May 4, 2026, Parent submitted a UIPA records request related to Student from the DOE regarding Section 504 information. P27, p.2556-02564.

173. Regarding the records requests under FERPA and UIPA that were made to the DOE by Parent, Home School personnel would often spend multiple hours gathering the requested documents to respond to the requests and provided Parent with thousands of pages of documents responsive to the requests. Testimony of VP, Tr.V2, 261:12-266:19.

## **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 (9<sup>th</sup> 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.

The burden of proof in a proceeding pursuant to Section 504 falls upon the party making the request. *See Wong v. Regents of University of California*, 410 F.3d 1052, 1058 (9<sup>th</sup> Cir. 2005). The standard of proof in such cases requires the requesting party to prove the allegations by a preponderance of the evidence. *Id.*, *see also Zukle v. Regents of University of California*, 166 F.3d 1041, 1045 (9<sup>th</sup> Cir. 1999); *Dempsey v. Ladd*, 840 F.2d 638, 640 (9<sup>th</sup> Cir. 1988).

### **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.*

#### Section 504 Framework

The United States Department of Education (hereinafter “U.S. DOE”) require recipients of federal funds to provide a FAPE to each qualified handicapped person. A FAPE under Section 504 is defined as “regular or special education and related aids and services that (i) are designed to meet individual educational needs of handicapped persons as adequately as the needs of nonhandicapped persons are met, and (ii) are based upon adherence to procedures that satisfy

the requirements of 34 C.F.R. §§104.34, 104.35, and 104.36.” 34 C.F.R. §104.33(a), (b); *see Mark H. v. Lemahieu*, 513 F.3d 922 (2008). The distinction between a FAPE under the individuals with disabilities education act (hereinafter “IDEA”) and Section 504 is that under Section 504, the comparison lies between the manner in which needs of the disabled children are met relative to the manner in which the needs of non-disabled children are met, and it focuses more on the design on the child’s program. *Lemahieu*, 513 F.3d at 933. A school district may meet the needs of a child under Section 504 if an individualized education program for special education and related services is developed for the child pursuant to the IDEA. 34 C.F.R. §104.33(b)(2); *Lemahieu*, 513 F.3d at 933.

To provide a FAPE under Section 504, an agency accepting federal funds must “(a) [u]ndertake and locate every qualified handicapped person residing in their jurisdiction who is not receiving a public education; and (b) [t]ake appropriate steps to notify handicapped persons and their parents or guardians of the agency’s duty under [34 C.F.R. §104, subpart D].” 34 C.F.R. §104.32. Once an eligible student is located, an evaluation must be done to determine the placement of the child, as well as any special education and related services. 34 C.F.R. §104.35(a). Before any significant change in placement may be made, another evaluation must be done. *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 April 20, 2026 eligibility determination

Petitioners’ first category alleges that the DOE failed to comply with reevaluation and eligibility requirements leading up to and including the DOE’s April 20, 2026 determination that Student was no longer eligible for IDEA services.

The IDEA requires that for all students who are determined to be students with disabilities, the educational agency shall ensure that a reevaluation of the student is conducted if the agency determines that the educational or related needs of the child warrant a reevaluation, or if the parent(s) or teacher(s) request a reevaluation. H.A.R. §8-60-35; 20 U.S.C. §1414(a)(2); 34 C.F.R. §300.303. This reevaluation may not occur more than once per year or not less than once every three years, unless the parent and agency agree otherwise. *Id.*

As part of the reevaluation, the student's team must review existing data on the student, including (A) evaluations and other information provided by the parents of the student; (B) current classroom-based or State assessments, and classroom-based observations; and (C) observations by teachers and related services providers. The team must then determine what, if any, additional data is necessary to determine whether the student continues to have a disability as listed in the IDEA, and the educational needs of the student. H.A.R. §8-60-37; 20 U.S.C. §1414(c); 34 C.F.R. §300.305. For instances where an agency is determining a change in eligibility, the agency shall evaluate a student under the above-mentioned sections before determining that the student is no longer a student with a disability. H.A.R. §8-60-37(e); 20 U.S.C. §1414(c)(5), 34 C.F.R. §300.305(e). In cases where a determination that a student has a [REDACTED], the student's team must consist of the student's regular teacher or a regular classroom teacher that is qualified to teach a student of the student's age, and at least one other person qualified to conduct individual diagnostic examinations of students, such as a school psychologist, speech-language pathologist, or remedial reading teacher. H.A.R. §8-60-40; 34 C.F.R. §300.308. The agency must also ensure that the student is observed in the student's learning environment (including the regular classroom setting) to document the student's academic performance and behavior in the areas of difficulty. H.A.R. §8-60-42; 34 C.F.R.

§300.310. If the student is determined to be a student with a disability under the IDEA, documentation of the agency's decision and a copy of the evaluation report shall be provided to parents. H.A.R. §8-60-38(a); 20 U.S.C. §1414(b)(4); 34 C.F.R. §300.306.

In this case, Student had been deemed eligible under the IDEA for special education and services throughout Student's attendance at Home School. Student had previously received IDEA special education and related services under IEPs prior to attending Home School. A reevaluation was conducted based on Parent's request in 2024. The results of that reevaluation found Student to be eligible under the category of [REDACTED] *FOF 5-6, 102*. The IEP-07/14/2025 was based, in large part, on the information gathered as a part of that reevaluation in 2024. *FOF 7*. Shortly before the finalization of the IEP-07/14/2025, Parent again requested a reevaluation of Student and the DOE agreed to meet on July 1, 2025 to determine whether additional assessments were needed for the reevaluation. *FOF 103-104*. At that meeting, the team determined that additional assessments would be conducted. These included a cognitive assessment, an academic assessment, a speech-language assessment, and an observation of Student in the academic setting. *FOF 105-114*.

The cognitive assessment, academic assessment, speech-language, and observation of Student were conducted in a timely manner and the team began to meet to discuss the results of the assessments as early as September 11, 2025. *FOF 41, 47, 54, 56, 58*. The assessments were conducted according to testing protocols and produced results from which the team could assess Student's abilities at the time of the testing. *See FOF 41-46, 47-49, 54-57, 58-65*. The team provided thorough reviews of the assessments, teacher input, and review of other data, such as report cards, progress reports, and anecdotal information, to address any concerns that Parent had with the assessments that were reviewed. *FOF 116-138*. The team had accumulated hundreds of

pages of data, including information from the previous reevaluations, in-class and homework assignments completed by Student, assessments, treatment plans, and other records provided by Parent, to review as part of this reevaluation. The review of the assessments and other information took place over a series of ten meetings.

Student had been demonstrating exemplary performance during the 2024-2025 school year, the summer of 2025, and the 2025-2026 school year. *FOF 67-100*. Student achieved [REDACTED] grades in all the quarters that were during the relevant times of discussion by the team, scored in the average range for all assessments, standardized tests, and had no behavioral incidents reported by any teachers or staff members during the school year. Student participated in extracurricular activities, actively participated in group activities, sought help and practiced self-advocacy in class when needed, and had begun internalizing some of the accommodations that had been provided to Student through Student's IEPs.

Home School provided timely updates as to the discussions that were held at the meetings in PWNs that were distributed to the team, including Parent, within a reasonable time after the meeting. *FOF 146*. During these meetings, Parent raised concerns regarding a 2022 psychological evaluation that had been conducted with Student by a private practitioner. The team had already reviewed and discussed that same 2022 psychological evaluation during the previous reevaluation and development of the IEP-07/14/2025 but continued to address Parent's concerns during the series of eligibility meetings that were held. *See P19, p.1433-1504*. The fact that the 2022 psychological evaluation may not have been included specifically in the review of records conducted by the assessors during the reevaluation does not provide evidence that the team did not discuss or consider it during the reevaluation process. "The regulatory requirement for an independent evaluation to be considered by a public agency does not mandate that there be

substantive discussion of the independent evaluation. *Mr. P v. West Hartford Board of Education*, 885 F.3d 735, 753 (2<sup>nd</sup> Cir. 2018) (citations and quotations omitted).

After thoroughly discussing all data that the team had gathered during the reevaluation process, the team went through each of the disability categories that were relevant to Student. *FOF 138-143*. These included [REDACTED] which Student had previously qualified under, [REDACTED], [REDACTED]. After thoroughly discussing the criteria for each eligibility category, the team determined that Student did not meet the eligibility criteria for any of the categories. Petitioners have not demonstrated any failures in the DOE's reevaluation process that took place from July 1, 2025 through April 20, 2026 that eventually determined that Student was not eligible for special education and related services.

Petitioners claim that the DOE failed to test Student in all areas of disability and cite to two cases where students were determined to be not eligible for special education and related services, however, these cases are factually distinguishable from the instant case. In the *Timothy O. v. Paso Robles Unified Sch. Dist.*, 822 F.3d 1105, 1119 (9<sup>th</sup> Cir. 2016), the school district failed to do any assessment or consider that the student had an [REDACTED] diagnosis for over two years while developing IEPs that categorized the student under various disabilities. The Court noted that the failure of the school district to assess the student in all areas of suspected disability was due to the failure to provide the team "critical evaluative information about the student's developmental abilities as an [REDACTED]." *Id.* In this case, Home School had information related to all the diagnoses that Student had received over the course of Student's education with the DOE. Petitioners do not point to any possible areas of disability that the DOE failed to test for in this case, since the DOE had years of information about Student, Student's disabilities, Student's IEPs, and Student's performance and progress in the school setting.

In the *V.S. ex rel. A.O. v. Los Gatos-Saratoga Joint Union High School Dist.*, 484 F.3d 1230, 1233-1234 (9<sup>th</sup> Cir. 2007), the Ninth Circuit Court's finding related entirely to the award of attorneys' fees. The Court did not examine the determination of whether an evaluation was properly conducted; the Court was making a determination of whether, based on the administrative law judge's decision that the school district was required to do an assessment of the student for special education and related purposes, the parents were entitled to attorneys' fees. The holding in the case has no bearing on the instant case.

Petitioners also argue that the failure of the DOE to provide records during the eligibility process was a denial of FAPE because it did not allow Parent to meaningfully participate in the process. The evidence in this case is that Parent was provided with all assessment reports prior to the first meeting in September 2025, including the reports that Parent provided to the DOE, report cards, Student's test results, and IEP progress reports from the 2024-2025 school year with the homework assignments upon which the IEP progress reports were based. *FOF 115*. The DOE continue to provide Parent with copies of the IEP progress reports and assignments that were the basis of the progress reports. During the questioning of the witnesses, Petitioners alluded to the fact that Parent was not provided the assessment books and scoring sheets or the tally sheet that SPED used to calculate the progress reports;<sup>18</sup> however, nothing in the IDEA requires that every single document that could possibly be related to Student be provided as an educational record. Parent was provided the test results by the professional who conducted the tests and could explain the test and the testing protocols. *FOF 115*. Parent was also provided the actual homework assignments with the corrections, comments, and score by the teachers from which the progress reports were compiled. *FOF 101*. Petitioners have not raised any valid argument

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<sup>18</sup> See Testimony of SSC, Tr.V4, 461:23-463:24; Testimony of SPED, Tr.V6, p.889:10-892:2.

that Parent was denied meaningful participation in the reevaluation and eligibility meetings due to not being provided records relating to Student.

Finally, it is worth noting that the IDEA and the various cases that have reviewed the process of evaluating children in all areas of suspected disability center around the idea that children that appear to be struggling in school would possibly need assessment for the school districts to determine the cause of the student's struggles and find ways to assist the student in making progress at school. In this case, Student has demonstrated that Student has made progress over the years of having special education and related services and no longer demonstrates the struggles that would raise any concerns about Student's ability to access the general education. *FOF 67-100*. Student has been in the general education classroom, doing work at the same level as Student's general education peers, and has been excelling in the classroom. Student's school team determined that based on Student's accomplishments over the years, Student is no longer in need of special education services because Student does not meet the eligibility criteria to be considered a child with a disability under the IDEA. Petitioners have not proven that the DOE has violated any part of the IDEA in reaching that conclusion through the reevaluation and eligibility process in this case.

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 2025-2026 school years

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 (hereinafter "IEE") by Parent during the 2025-2026 school year.

As an initial matter, Petitioners' closing brief highlights the particular request for IEE that was made by Parent to have the independent board-certified behavior analyst observe Student on

campus. Petitioners point to a request on June 9, 2025 that was made to VP requesting the IEE of the independent board-certified behavior analyst. The issue of the IEE during the time period prior to July 1, 2025 was addressed specifically in the Decision in [REDACTED]. See P19, p.1433-1504. In the Decision in [REDACTED] this Hearings Officer made findings about Parent's request for the private providers on campus that was declined. This Hearings Officer also concluded that Petitioners had not proven that the DOE's decision not to allow outside providers onto campus to observe Student when Student did not demonstrate any behavioral concerns was not a violation of the IDEA and not a denial of FAPE. See also Petitioners' closing brief, p.40. As discussed in the [REDACTED] Decision, 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 parents and school administrators." *G.J. v. Muscogee School Dist.*, 668 F.3d 1258, 1267 (11<sup>th</sup> Cir. 2012) (citing *Letter to Mamas*, 42 IDELR 10 (OSEP, May 26, 2004)).

Petitioners also raise this issue as part of the July 1, 2025 initial eligibility meeting, where the team determined what assessments would be completed for Student's reevaluation. At that time, Petitioners again requested that an outside provider come onto campus to observe Student. The team discussed the request and again declined Parent's request due to the lack of behaviors demonstrated by Student while in school. *FOF 108*. It is worth noting that at Student's previous school, the DOE had contracted a private board-certified behavior analyst to observe Student in the school setting due to Parent's concerns about Student's behaviors. See P19, p.1458-1459. The board-certified behavior analyst determined that Student did not display or engage in any behaviors that affected Student's or other students' ability to engage in their education. Since then, Student's behaviors have only improved and none of Student's teachers have any

complaints, notes, or comments about Student's behavior in class, other than to point out that Student excels in their classes. *See FOF 87, 89-91, 93-94, 96-99.*

Petitioners have failed to prove that the DOE denying Parent's request to have an independent examiner observe Student on campus for the 2025-2026 school year or as part of Student's reevaluation process 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 2025-2026 school year<sup>19</sup>

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 educational progress during the 2025-2026 school year. 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 no 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 to keep up their grade [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

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<sup>19</sup> This Hearing Officer notes that this exact issue was decided in the [REDACTED] Decision.

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.

In this case, Student's IEP goals and objectives are based entirely 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. *FOF 89-90, 94-95*. 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 2025-2026 school year.

D. Petitioners have not proven that the DOE failed to convene a timely IEP meeting during the 2025-2026 school year despite Parent's request

Petitioners' next argument is that the DOE failed to convene a timely IEP meeting during the 2025-2026 school year despite Parent's request. As an initial matter, the IEP-07/14/2025 was

the subject of the due process hearing in [REDACTED] Decision. The Decision was filed on January 2, 2026 in which a specific finding was made that the IEP-07/14/2025 was appropriate for Student to make reasonable progress in light of Student's unique circumstances.

Petitioners claim that the Parent requested an IEP review meeting at the December 16, 2025 meeting and the DOE failed to convene a meeting based on that request. *FOF 135*. No evidence has been presented as to why the IEP review meeting had been requested or what the basis for the request was. Petitioners have not presented evidence that Student was struggling and needed something in the IEP-07/14/2025 to be modified to address Student's struggles. The team was in the middle of the reevaluation process that Parent had requested and was also in the middle of the due process hearing for [REDACTED] when the request was made.

In light of the Decision being issued in January 2026, after Parent's request for an IEP meeting, it was reasonable for the team to continue with the reevaluation process, since the IEP-07/14/2025 was determined to be appropriate for Student. Petitioners have not provided any evidence that any additional requests were made for an IEP meeting after the Decision was issued. Petitioners have not proven that the failure to convene an IEP meeting after one was requested by Parent in December 2025 while the team was in the middle of Student's reevaluation process and a Decision was rendered regarding Student's IEP at issue in January 2026 was a denial of FAPE.

E. Petitioners have not proven that the DOE denied Student a FAPE by failing to have the necessary team members as part of its reevaluation meetings

Petitioners next argue that the DOE failed to have the necessary team members as part of the reevaluation meetings.

In cases where a determination that a student has a [REDACTED] the student's team must consist of the student's regular teacher or a regular classroom teacher that is

qualified to teach a student of the student's age, and at least one other person qualified to conduct individual diagnostic examinations of students, such as a school psychologist, speech-language pathologist, or remedial reading teacher. H.A.R. §8-60-40; 34 C.F.R. §300.308. The agency must also ensure that the student is observed in the student's learning environment (including the regular classroom setting) to document the student's academic performance and behavior in the areas of difficulty. H.A.R. §8-60-42; 34 C.F.R. §300.310.

The DOE had at least one of Student's regular teachers at each of the ten reevaluation team meetings and at least one person that was qualified to conduct individual diagnostic exams of students. *FOF 147*. Petitioners argue that since Student's general education ELA teacher(s) were not present at all the meetings, and that an administrative designee was present instead of VP at one of the meetings, the DOE violated the procedures of the IDEA. As noted above, for the reevaluation process, only two team members are required, one teacher that is qualified to teach students of Student's age, and a person qualified to conduct assessments of students. The DOE exceedingly satisfied the requirements of the IDEA and had multiple teachers and multiple qualified assessors at the reevaluation meetings. Petitioners have not proven that the DOE failed to have necessary team members present at the reevaluation meetings.

F. Petitioners have failed to prove that the DOE failed to implement Student's IEP-07/14/2025

Petitioners argue that the DOE failed to implement the IEP-07/14/2025 by failing to provide records of Student's progress to Parent, failed to allow an observation of Student in the classroom by an outside observer, failed to detail Student's progress on goals in the progress reports, and had Student complete a handwritten quiz in class, rather than allowing the use of a computer.

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 (9<sup>th</sup> Cir. 2007); *see also L.J. by N.N.J. v. School Board of Broward County*, 927 F.3d 1203 (11<sup>th</sup> Cir. 2019).

In this case, it appears that Petitioners' claim of failure to materially implement Student's IEP-07/14/2025 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.<sup>20</sup> Petitioners' Closing Brief, p.46. 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. This argument carries no weight.

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

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<sup>20</sup> The issues of failing to provide records and allowing an observation of Student on campus by an outside observer have been already addressed in this Decision.

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.<sup>21</sup> 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-07/14-2025. *FOF 70-72, 76, 77-79, 80-81*. 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 [REDACTED] had improved sufficiently for teachers to understand [REDACTED] Student’s [REDACTED] work. The fact that Student was required to complete a quiz in class without using assistive technology and was successful is not evidence of a material failure to implement Student’s IEP. Student also received above-average grades for the 2025-2026 school

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<sup>21</sup> 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.

year based on grade-level standards and earned [REDACTED]

[REDACTED] This is not a case of Student just being promoted from grade to grade; Student is excelling at grade level expectations based on the general education curriculum. Petitioners have not demonstrated that the DOE failed to implement Student's IEP-07/14/2025.

G. Petitioners have failed to prove that the DOE violated 34 C.F.R. §104.33 in relation in its obligation to provide FAPE

Petitioners assert that the DOE violated 34 C.F.R. §104.33 in relation to its obligation to provide FAPE. Section 504 requires that schools provide students a FAPE to each qualified student with a disability. Unlike the IDEA, the student does not need to meet the criteria in order to be eligible under Section 504. A school district may comply with its obligations under Section 504 if it is providing services under the IDEA to the student.

In this case, Student was determined to be no longer eligible under the IDEA on April 20, 2026. *FOF 145*. At the end of the April 20, 2026 meeting the team requested that they meet to conduct an SFT for Section 504. *FOF 148*. Parent declined to schedule the meeting at the time but stated that Parent would follow up with Home School. The DOE informed Parent that Student's special education services would end on May 8, 2026 and continued to follow up with Parent to schedule a Section 504 meeting. *FOF 151*. On April 30, 2026, Home School provided Parent with an interim student support plan for Student, which provided a plan for Student to receive the *exact same* accommodations that were being provided to Student under the IEP-07/14/2025. *FOF 155-156*. The only difference between the interim student support plan and the IEP-07/14/2025 was the lack of special education minutes for Student.

The team was able to schedule a SFT meeting with Parent for May 5, 2026 and determined that the team did not need any additional data to develop a Section 504 plan for

Student. *FOF 159-161*.

Petitioners have not proven that the DOE failed to provide Student a FAPE under Section 504 after Student was determined not to eligible for special education and related services under the IDEA. The DOE provided a plan that was identical to the IEP-07/14/2025 until the team could meet and further discuss the plan.<sup>22</sup>

H. Petitioners have failed to prove that the DOE violated 34 C.F.R. §104.35, H.A.R. §8-61-3, and H.A.R. §8-61-4 in relation to preplacement procedures, evaluation procedures, and placement procedures

Petitioners' next argument is that the DOE failed to comply with preplacement evaluation requirements, evaluation procedures, and placement procedures under Section 504.

Similar to the IDEA, Section 504 has a 'child find' requirement, where school districts are required to "[u]ndertake to identify and locate every qualified handicapped person residing in the [school district's] jurisdiction who is not receiving a public education." 34 C.F.R. §104.32. The school districts must conduct an evaluation of any person who because of a disability, needs or is believed to need special education or related services before taking any action with respect to the *initial* placement or any subsequent *change in placement*. 34 C.F.R. §104.35(a).

In this case, Student is undoubtedly a qualified individual residing in the DOE's jurisdiction; however, Student has been receiving a public education from the DOE under the IDEA, which satisfies the FAPE requirement under Section 504. Further, the DOE is not determining a placement for Student, as Student is in the general education classroom and no significant change in Student's placement was made in this case.

Finally, the DOE did attempt to meet with Parent to conduct an evaluation under Section 504 and to proceed with developing an appropriate Section 504 plan for Student. *FOF 148-151*,

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<sup>22</sup> The parties acknowledge that the interim student support plan has not been implemented since stay-put was in effect before the date on which Student's special education services was supposed to end.

153-155. It was Parent who delayed scheduling the meeting, which was eventually held on May 5, 2026.

Petitioners have not provided any evidence that the DOE failed to comply with Section 504 regulations that are applicable to Student in this case. Student had been receiving services as a qualified individual under the IDEA and Student's ineligibility after April 20, 2026 did not reset or delete all the previous work and evaluations that the DOE had done with Student prior to that time. The DOE attempted to schedule a meeting with Parent to begin the Section 504 plan development process, but Parent delayed the scheduling of the meeting.

I. Petitioners have failed to prove that the DOE denied Student a FAPE through a collective failure to comply with the requirements under the IDEA and Section 504

Petitioners' final argument 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 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 undisputed that Parent was afforded ample opportunities to participate in the reevaluation process and eligibility determination. *See FOF 116-145*. While Parent attempts to argue that Parent was not provided with all the records that Parent may have requested from

the DOE, this argument has no merit. Parent had access to all the completed assessments and observations as part of the reevaluation process; as well as privately obtained assessments that Parent provided to the DOE; Student's report cards; IEP progress reports; and Student's graded assignments that formed the basis of the IEP progress reports. *FOF 115*. Petitioners alluded to the idea that the teachers were required to provide some kind of tally sheet to Parent or the actual assessment books or score sheets, but have provided no authority that these types of records are required to allow Parent to meaningfully participate in the reevaluation process.

Student has also demonstrated great academic and behavioral achievement in school. *Fof 67-100*. 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. 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. Student participates in extra-curricular activities and has been seen socializing with peers.

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 the DOE substantially complied with the reevaluation process, the access to educational updates in a similar manner to Student's general education peers, and the initial requirements under Section 504. The determination that

Student is no longer eligible for special education and related services under the IDEA is appropriate based on Student's assessments, progress reports, report cards, and anecdotal information provided by Student's teachers. The interim student support plan that was developed for Student contained the exact same accommodations that Student was receiving as part of the IEP-07/14/2025 and was appropriate to assist Student during the time that the team would need to develop the Section 504 plan for Student.

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, July 31, 2026.

  
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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