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OFFICE OF DISPUTE RESOLUTION  
DEPARTMENT OF THE ATTORNEY GENERAL  
STATE OF HAWAII

In the Matter of:  
STUDENT, by and through Student's Parent,  
PARENT-1<sup>1</sup>,

Petitioners,

vs.

DEPARTMENT OF EDUCATION, STATE  
OF HAWAII and KEITH T. HAYASHI,  
Superintendent of Hawaii Public Schools,

Respondents.

DOE-SY2526-016

FINDINGS OF FACT, CONCLUSIONS OF  
LAW AND DECISION

Due Process Hearing:  
February 3 and 4, 2026

Hearings Officer: Charlene S.P.T. Murata

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND DECISION**

**I. JURISDICTION**

This proceeding was invoked in accordance with the Individuals with Disabilities Education Act ("IDEA"), as amended in 2004, codified at 20 U.S.C. §§ 1400, et seq.; the federal regulations implementing IDEA, 34 Code of Federal Regulations ("C.F.R.") Part 300; and the Hawaii Administrative Rules ("H.A.R.") §§ 8-60-1, et seq. Additionally, Petitioners allege

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

violations of Section 504 of the Rehabilitation Act of 1973 (“Section 504”), as amended in 1974, codified at 29 U.S.C. §§ 794, et seq.; and the H.A.R. §§ 8-61-1, et seq.

## **II. INTRODUCTION**

On October 2, 2025, the Department of Education, State of Hawaii and Keith T. Hayashi, Superintendent of the Hawaii Public Schools (“Respondents” or “DOE”) received a Complaint and Resolution Proposal from Student, by and through Student’s Parent, Parent-1 (collectively “Petitioners”) (“Complaint”).

On October 10, 2025, Respondents filed a response to Petitioners’ Complaint.

On October 30, 2025, a Notice of Prehearing Conference; Subjects to be Considered was issued to the parties, setting a prehearing conference for November 10, 2025.

On November 10, 2025, a prehearing conference was held with Keith H.S. Peck, Esq. (“Mr. Peck”) appearing on behalf of Petitioners, and Deputy Attorneys General Jonathan N. Marchuk (“Mr. Marchuk”) and Ricardo Cortez-Aoyagi (“Mr. Cortez”) appearing on behalf of Respondents. The prehearing conference was not completed on this day as Mr. Marchuk informed the participants that he would be leaving the Department of the Attorney General and that Mr. Cortez would be taking over this case.

On November 14, 2025, Mr. Cortez filed a Notice of Appearance of Counsel (Ricardo Cortez-Aoyagi and Anne T. Horiuchi) for Respondents Department of Education, State of Hawaii, and Keith T. Hayashi.

On November 18, 2025, Mr. Cortez filed a Notice of Withdrawal of Counsel (Jonathan N. Marchuk) for Respondents Department of Education, State of Hawaii, and Keith T. Hayashi.

On December 9, 2025, a Notice of Further Prehearing Conference; Subjects to be Considered was issued to the parties, setting a prehearing conference for December 10, 2025.

On December 10, 2025, Mr. Peck, Mr. Cortez and the undersigned participated in a further prehearing conference. During the prehearing conference, the parties agreed to have the due process hearing on February 3, 4, and 6, 2026.

On December 18, 2025, a Prehearing Order was issued to the parties, setting forth the issues and procedures for the due process hearing, and the deadlines for submission of witness and exhibit lists, and exhibits. The parties timely submitted their witness lists, exhibit lists, and exhibits on January 27, 2026.

On January 22, 2026, Respondents requested the issuance of a subpoena commanding Private Psychiatrist to appear and testify at the due process hearing. On January 23, 2026, Petitioners filed Petitioners' Objection to Subpoena, Motion in Limine and Motion for Protective Order Preserving Civil-Rights Claims. On the same day, Respondents filed Respondents Department of Education, State of Hawaii and Keith T. Hayashi's Memorandum in Opposition to Petitioners' Objection to Subpoena, Motion in Limine and Motion for Protective Order Preserving Civil-Rights Claims, filed on January 23, 2026. In the evening of January 23, 2026, Petitioners submitted Petitioners' Reply in Support of Motion in Limine and Protective Order. On January 26, 2026, an Order Denying Petitioners' Motion in Limine and Motion for Protective Order Preserving Civil-Rights Claims, filed January 23, 2026, was issued.

On February 4, 2026, Petitioners submitted Petitioners' First Amended Witness List & Exhibit List<sup>2</sup>.

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<sup>2</sup> It appears that the intent of Petitioners' First Amended Witness List & Exhibit List is to withdraw a duplicate copy of the May 19, 2025 IEP (pages 029-055); however, in doing so, Petitioners made an error in their "PG. NO." column by skipping page "056." Therefore, Petitioners' amended Exhibit List is off by one page and page "106" does not exist. For the

The due process hearing took place on February 3 and 4, 2026<sup>3</sup>, using Zoom, a videoconferencing platform. The undersigned Hearings Officer presided over the matter. Petitioners were represented by Mr. Peck, and Respondents were represented by Mr. Cortez. The Department of Education District Educational Specialist-1 (“DES-1”) was present on behalf of Respondents. All participants in the due process hearing appeared remotely via video and audio. Parent-1 testified on February 3, 2026 via video and audio. After Parent-1’s testimony, Parent-1’s presence was waived for the remainder of the hearing.

Petitioners called Parent-1 as their only witness during the due process hearing. Respondents called the following witnesses during the due process hearing: District Educational Specialist-2 (“DES-2”), Private Psychiatrist, DOE Psychologist, and Assistant Principal. Petitioners did not call any rebuttal witnesses.

The following Petitioners’ exhibits were admitted into evidence during the hearing: Exhibit 1 (pages 001-028, 057-058, 059-061) and Exhibit 2 (pages 062-106). Tr. Vol. II, 175:20-176:7.

The following Respondents’ exhibits were admitted into evidence during the hearing: Exhibits 5, 8, 19, 20, 28-31, 33, 34, 38, 39, 42-53, 55-61, 63, 65, 73, 77-88, 95, 96, 98, 100, 101, 103, 105, 106, 109-111, 114-119, 125-127<sup>4</sup>, and 130. Tr. Vol. II, 178:2-179:8, 279:24-281:3.

On March 11, 2026, the parties timely submitted their closing briefs.

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purposes of citing to the record in this decision, the undersigned will utilize Petitioners’ Witness List & Exhibit List, filed on January 27, 2026, because it has the correct “PG. NO.”

<sup>3</sup> The due process hearing was also scheduled for February 6, 2026; however, the hearing concluded on February 4, 2026 and February 6, 2026 was taken off calendar.

<sup>4</sup> Respondents’ Exhibit 127 is a transcript of portions of an IEP meeting on July 1, 2025 that counsel created pursuant to the Prehearing Order to assist in the review of the actual recording, which is Respondents’ Exhibit 130 and in evidence.

The deadline for which a decision on this matter must be issued is April 30, 2026. See Order Granting Respondents’ Request to Extend the 45-Day Decision Deadline from December 16, 2025 to January 30, 2026; Declaration of Jonathan N. Marchuk, dated November 14, 2025, issued on November 14, 2025; Order Granting Respondents’ Second Request to Extend the 45-Day Decision Deadline from January 30, 2026 to March 16, 2026; Declaration of Ricardo Cortez-Aoyagi, dated December 19, 2025, issued on January 12, 2026; Order Granting Respondents’ Third Request to Extend the 45-Day Decision Deadline from March 16, 2026 to April 30, 2026; Declaration of Ricardo Cortez, dated February 17, 2026, issued on February 18, 2026.

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. Although all the evidence was considered, only evidence relevant to the resolution of the issues is stated in the findings.

### **III. ISSUES PRESENTED**

In their Complaint, Petitioners allege that Respondents denied Student a free and appropriate public education (“FAPE”). Petitioners raise the following issues:

Issue 1 – Whether the DOE violated Section 504, 34 C.F.R. § 104.35, by failing to initiate a Section 504 evaluation after receiving Petitioners’ written request for reasonable accommodations supported by [REDACTED] documentation.

Issue 2 – Whether the DOE violated Section 504 by failing to convene a Section 504 team meeting within a reasonable time following Petitioners’ June 6, 2025, request.

Issue 3 – Whether the DOE violated Section 504, 34 C.F.R. §§ 104.33–104.34, by failing to provide interim reasonable accommodations—such as home-based instruction or other [REDACTED] necessary supports—while the request for accommodations was pending.

- Issue 4 – Whether the DOE violated Section 504 by conditioning its duty to evaluate and accommodate Student on submission of the DOE’s internal “Home Hospital Instruction (HHI)” form despite having sufficient [REDACTED] documentation demonstrating a disability-related need for accommodations.
- Issue 5 – Whether the DOE violated Section 504 by declining to conduct a Section 504 evaluation or consider 504 accommodations based on the mistaken belief that IDEA eligibility displaced or eliminated the DOE’s independent obligations under Section 504.
- Issue 6 – Whether the DOE violated the IDEA by failing to convene an IEP meeting within a reasonable time after receiving [REDACTED] evidence that Student could not attend school in-person.
- Issue 7 – Whether the DOE violated the IDEA by failing to conduct a reevaluation or perform additional assessments required to address Student’s disability-related inability to attend school.
- Issue 8 – Whether the DOE violated the IDEA, including 34 C.F.R. § 300.115, by failing to consider home-based instruction as part of the required continuum of educational placements.
- Issue 9 – Whether the DOE violated the IDEA by failing to treat Student’s [REDACTED] absenteeism as potentially disability-related and failing to revise the IEP, services, or placement accordingly.
- Issue 10 – Whether the DOE violated the IDEA by failing to develop or provide necessary [REDACTED] supports required for Student to access instruction.
- Issue 11 – Whether the DOE violated the IDEA by conditioning revisions to the IEP, or consideration of home-based instruction, on submission of the DOE’s HHI form despite possessing adequate [REDACTED] documentation to act.

Petitioners request the following remedies:

- Remedy 1 – Find that the DOE denied Student a FAPE for the violations asserted;
- Remedy 2 – Order the DOE to reimburse Parent for any privately funded programs and/or services related to a denial of FAPE;
- Remedy 3 – Order the DOE to directly fund any private services (including private related services, such as transportation and necessary expenses related to the provision of private services);

Remedy 4 – Order compensatory education if Parent was unable to provide all of the services Student required to ameliorate Student’s losses; and/or

Remedy 5 – Order such other relief that is appropriate and justified in equity and/or in law, under the circumstances.

**IV. FINDINGS OF FACT**

**Student**

1. Student is currently [REDACTED] old. Pet. Ex. 1 at 001.
2. Student is eligible for special education and related services pursuant to the IDEA and Hawaii Administrative Rules Chapter 60 under the category of Intellectual Disabilities. Pet. Ex. 1 at 002. Student has been eligible under the IDEA throughout Student’s time at the public school. Student’s IDEA eligibility will terminate the day before Student’s 22nd birthday. Pet. Ex. 2 at 072-075; DOE Ex. 34 at 171-174.
3. [REDACTED]  
[REDACTED]  
[REDACTED] Pet. Ex. 2 at 088-098; DOE Ex. 51 at 256-259; DOE Ex. 52 at 260.
4. [REDACTED]  
Pet. Ex. 1 at 009; DOE Ex. 34 at 174.
5. Private Psychiatrist has been Student’s treating psychiatrist [REDACTED]  
[REDACTED] Private Psychiatrist primarily monitors Student’s progress and behavior, including issues with [REDACTED] Private Psychiatrist sees Student approximately once every six (6) months or a year, depending on whether Student is experiencing something acute. Private Psychiatrist, Tr. Vol. II, 159:16-160:1. Private Psychiatrist has never observed Student in the school environment. Private Psychiatrist, Tr. Vol. II, 161:13-15. Information that Student is experiencing [REDACTED] in the school

setting is relayed to Private Psychiatrist from Parent-1. Private Psychiatrist, Tr. Vol. II, 161:23-162:5.

6. [REDACTED]  
[REDACTED]  
[REDACTED] DOE Ex. 55 at 265-272.

**Facts of Case**

7. On October 10, 2022, Parents were provided a copy of an evaluation summary report as part of a reevaluation (“October 2022 ESR”). As a part of the reevaluation, the following assessments were administered: formal speech/language, occupational therapy, physical therapy, [REDACTED], adaptive behavior, and cognitive. According to the October 2022 ESR, “[Student] receives specialized instruction in special education’s [REDACTED] [REDACTED]...To support [Student’s] transition back to the [REDACTED] school from [Student’s] [REDACTED] procedure [REDACTED] [Student] transitioned to [Home School’s] [REDACTED] classroom...” The October 2022 ESR also states that “Although the goal was for [Student] to ultimately transition/return to [Student’s] [REDACTED] class...in response to parent concern/request [Student] continues to be placed in the [REDACTED] class.” Pet. Ex. 2 at 072-075.
8. On March 6, 2023 (Monday), Parent-1 informed Home School that Student would be absent on March [REDACTED] as a [REDACTED] as recommended by Student’s psychiatrist.  
[REDACTED]  
[REDACTED]  
[REDACTED] Parent-1 emailed to Home

School a copy of a letter written by Private Psychiatrist, dated December 7, 2022 (“12/07/2022 letter”). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Pet. Ex. 2 at 084; DOE

Ex. 29 at 158-159; DOE Ex. 30 at 160-161.

9. On March 29, 2023 (Wednesday), Parent-1 informed Home School that Parent-1 received an automated phone message from Home School stating that Student was absent on this day and informed Home School that pursuant to Private Psychiatrist’s 12/07/2022 letter, Student would be absent from school on [REDACTED] going forward. DOE Ex. 30 at 160.

10. On March 30, 2023, Assistant Principal informed Parent-1 that Home School had not seen the “mentioned symptoms” at school. Assistant Principal also informed Parent-1 that Parents could keep Student home when Student was not feeling well. On the same day, Parent-1 informed Assistant Principal, that since March 8 when Student stopped going to school on [REDACTED], Student had a much happier disposition when waking up in the morning, going to bed in the evening, and coming home on [REDACTED]. As such, Parents decided that they would continue to keep Student at home on [REDACTED]. DOE Ex. 30 at 160.

11. On August 31, 2023, Parent-1 emailed Home School stating that a follow-up letter from Student’s psychiatrist was attached and that it confirmed that Student should continue with [REDACTED] indefinitely; however, the letter was not attached to the email. Parent-1 asked Assistant Principal to arrange an IEP meeting to make the necessary changes to Student’s IEP based on the letter. DOE Ex. 31 at 162-163.

12. On October 22, 2023, Parent-1 gave Home School a copy of a letter dated August 22, 2023 from Private Psychiatrist (“8/22/2023 letter”), which recommended extending [REDACTED] off indefinitely. Private Psychiatrist wrote in the 8/22/2023 letter: “I recently saw [Student] in a follow-up session along with [Parent-1] and had the opportunity to review [Student’s] response to a reduced school week schedule. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] I would recommend that [Student]

continue with the current reduced school week schedule indefinitely.” DOE Ex. 31 at 162-165.

13. On May 6, 2024, Parent-1 informed Home School that Student would be absent from school on [REDACTED]. DOE Ex. 33 at 170.
14. On May 8, 2024, Parent-1 informed Home School that Student would be absent from school on [REDACTED] for a doctor's appointment. DOE Ex. 33 at 170.
15. On May 14, 2024, Parent-1 informed Home School that Student would be absent from school on [REDACTED] DOE Ex. 34 at 172.
16. Also on May 14, 2024, Home School informed Parent-1 that Home School's Attendance Policy is that students who accumulate fifteen (15) absences through the year are considered chronically absent. DOE Ex. 34 at 171-172.
17. Beginning around December of 2024, Student increasingly did not want to go to school and went to school less and less. [REDACTED]  
[REDACTED] By May of 2025, Student stopped going to school. Parent-1, Tr. Vol. I, 60:16-61:20.
18. On January 7, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED]. DOE Ex. 38 at 236.
19. On January 27, 2025, Parent-1 informed Home School that Student would be absent from school [REDACTED]. DOE Ex. 42 at 245.
20. On January 28, 2025, Parent-1 informed Home School that Student would be absent [REDACTED]  
[REDACTED] DOE Ex. 42 at 245.
21. On January 31, 2025, Parent-1 informed Home School that Student would be absent from school [REDACTED]. DOE Ex. 43 at 247.

22. On February 2, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED]. DOE Ex. 44 at 248.
23. On February 4, 2025, Home School requested a doctor’s note for Student’s absences, reminding Parents that students are considered chronically absent when they accumulate fifteen (15) absences throughout the year. DOE Ex. 44 at 248.
24. On February 9, 18 and 23, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED]. DOE Ex. 45 at 250; DOE Ex. 46 at 251; DOE Ex. 47 at 252.
25. On March 3, 10, and 11 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED]. DOE Ex. 48 at 253; DOE Ex. 49 at 254; DOE Ex. 50 at 255.
26. On March 25, 2025, [REDACTED], [REDACTED], Parent-1 submitted to Home School a letter dated December 16, 2024 from Private Psychiatrist (“12/16/2024 letter”). DOE Ex. 51 at 256-259; DOE Ex. 52 at 260. Private Psychiatrist’s 12/16/2024 letter states in part: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] DOE Ex. 51 at 257.
27. On March 31, 2025, Parent-1 informed Home School that Student would be absent [REDACTED] [REDACTED] because Student was not feeling well. Home School in turn reminded Parent-1 again that students who accumulate fifteen (15) absences throughout the year are considered chronically absent. DOE Ex. 53 at 261-262.

28. On April 4, 2025, Parent-1 informed Home School that Student would be absent from school [REDACTED]  
DOE Ex. 55 at 265.
29. On April 6, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED]  
[REDACTED] DOE Ex. 56 at 274.
30. On April 14, 15, 21 and 24, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED]  
[REDACTED] DOE Ex. 57 at 275; DOE Ex. 58 at 276; DOE Ex. 59 at 277; DOE Ex. 60 at 278-279.
31. On April 27, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] DOE Ex. 61 at 280.
32. On May 4 and 12, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED]  
[REDACTED] DOE Ex. 63 at 286; DOE Ex. 65 at 288.
33. On May 19, 2025, an IEP meeting was held with the following individuals in attendance: Student Services Coordinator (“SSC”), Assistant Principal, Parents, Mr. Peck, Ms. Horiuchi, DES-2, a speech/language pathologist, a physical therapist, a

certified occupational therapy assistant, a general education teacher, a district resource teacher, and three (3) special education teachers. Pet. Ex. 1 at 028.

34. The 5/19/2025 IEP meeting was an annual IEP meeting and the last IEP meeting held for Student. The 5/19/2025 IEP meeting resulted in an IEP dated “05/19/2025, 11/26/2024, 11/26/2024” (“5/19/2025 IEP”). According to the 5/19/2025 IEP, Student’s Reevaluation Date was October 10, 2025. DES-2, Tr. Vol. I, 106:11-12, 126:7-10; Pet. Ex. 1 at 001.

35. According to the 5/19/2025 IEP, Student is in [REDACTED] [REDACTED] Student will continue working on reading, writing, math, and communication skills to better prepare Student [REDACTED] [REDACTED] Pet. Ex. 1 at 001, 009.

36. The 5/19/2025 IEP provides Student with special education, transportation, speech/language therapy and occupational therapy services. The 5/19/2025 IEP also provides physical therapy consultation and numerous supplementary aids and supports in the classroom, on campus, [REDACTED] when there as a part of the school day. Pet. Ex. 1 at 022-023. The 5/19/2025 IEP does not provide behavioral or mental health services.

37. According to the 5/19/2025 IEP, Student’s least restrictive environment was “[a]t the [REDACTED] high school. [Student] will receive specialized instruction and related services in Special Education’s [REDACTED] academic program, which includes the four core academic subjects, [REDACTED], communication, [REDACTED] education. [Student] has increased opportunities to engage general education peers during normal school

transition periods, recess, lunch, and all social and extracurricular school activities, including [REDACTED].” Pet. Ex. 1 at 001; DOE Ex. 19 at 080-107. The IEP team did not discuss homebound placement at the 5/19/2025 IEP meeting. DES-2, Tr. Vol. I, 86:19-87:11.

38. According to the 5/19/2025 IEP, Parents shared that due to medical reasons, Student requires [REDACTED] per day in the bathroom. Parents also explained that Student’s recent absences were due to Student needing [REDACTED] hours of sleep per night, and when Student does not get sufficient rest, [REDACTED]. [REDACTED] To address this, Parents requested a modified school schedule that would allow Student to arrive at school at [REDACTED] Pet. Ex. 1 at 006.

39. [REDACTED]  
[REDACTED]  
[REDACTED] Parent-1, Tr. Vol. I, 20:3-21.

40. On May 19, 2025, SSC emailed to Parents a consent form for Parents to complete and sign so that Home School could communicate with Student’s private providers. Pet. Ex. 2 at 088.

41. On May 20, 2025, Parent-1 emailed to SSC a signed “Consent for Release of Information” form, granting Home School permission to release and receive information to/from Private Psychiatrist. SSC acknowledged receipt of the consent form on May 21, 2025. Pet. Ex. 2 at 088-098. According to the signed consent form, Parent-1 gave Home School consent to release and receive documents/information from Private Psychiatrist, which includes “Any and all clinical-medical treatment(s), assessment(s) data, intake-discharge summaries/reports, treatment observations, including consent to



temporarily modifying [Student's] school start time from [REDACTED] [sic] to [REDACTED] [sic].”

Pet. Ex. 1 at 058-060; DOE Ex. 20 at 108-110.

43. On May 25, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED] “due to medical reasons” and Parent-1 would provide medical documentation once received from Student’s doctor. May 26, 2025 was a holiday (Memorial Day). DOE Ex. 73 at 352.
44. On June 6, 2025<sup>5</sup>, Parent-1 sent the following email to Principal: “We are writing to formally request, pursuant to Section 504 of the Rehabilitation Act of 1973, that our [child], [Student]...be provided home-based educational services as a reasonable accommodation for [Student’s] disability...As supported by the medical documentation from [Private Psychiatrist] dated May 27, 2025 (attached), [Student] is currently unable to attend school [REDACTED] [REDACTED] [Private Psychiatrist] specifically recommends that [Student] receive educational instruction in [Student’s] home environment due to [Student’s] documented history of [REDACTED] [REDACTED] Immediate Concerns: [Student’s] condition has resulted in substantial educational impact, including: · [REDACTED] [REDACTED] · Inability to concentrate or engage meaningfully in the classroom environment · Deteriorating academic performance despite [Student’s] cognitive abilities · [REDACTED]

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<sup>5</sup> According to Petitioners’ disclosures, Parent-1’s 6/06/2025 email was sent at 5:27 p.m. According to DOE’s disclosures, Parent-1’s 6/06/2025 email was sent at 2:30 p.m. Pet. Ex. 2 at 079; DOE Ex. 77 at 357. June 6, 2025 was a Friday. There was no delay when Principal replied to Parent-1’s 6/06/2025 email on June 9, 2025.

[REDACTED] Given the ongoing educational impact and [Private Psychiatrist's] clear medical recommendation, we request immediate consideration of interim home-based accommodations pending the formal 504 meeting.” The 6/06/2025 email further states: “REQUESTED ACTIONS: 1. Immediate interim home-based instruction while formal 504 process proceeds [;] 2. Section 504 team meeting within 10 school days of this request [;] 3. Evaluation for appropriate long-term home-based services [;] 4. Consideration of compensatory education for educational time lost... We are available for meetings based on availability...” Attached to the 6/06/2025 email were a letter from Private Psychiatrist, dated May 27, 2025 (“5/27/2025 letter”); a “Declaration of [Parent-1] and [Parent-2],” dated May 30, 2025; a copy of Private Psychiatrist’s 12/07/2022 letter; and a document entitled “Legal Summary Regarding Section 504 Home Instruction Request for [Student].” Pet. Ex. 2 at 079-087; DOE Ex. 77 at 357-358.

45. Private Psychiatrist’s 5/27/2025 letter states: “[REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] I therefore recommend that [Student] receive [Student's] educational services in a home-based setting for the foreseeable future. [REDACTED]

[REDACTED]

[REDACTED]” Pet. Ex. 2 at 081; DOE Ex. 125 at 731.

46. Parents’ “Declaration of [Parent-1] and [Parent-2],” dated May 30, 2025, states in part:

“ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] “[Private

Psychiatrist]... has evaluated [Student's] condition and issued a written recommendation

dated May 27, 2025, stating that home-based instruction is [REDACTED] necessary. We

have signed all necessary HIPAA releases for school communication with [Private

Psychiatrist]”; “Based on [Private Psychiatrist's] medical advice and our daily

observations, we believe home-based educational services are the only appropriate

accommodation that would allow [Student] to: [ ] Access [Student's] education [REDACTED]  
[REDACTED]"; and "We respectfully request that the school district provide [Student] with home-based educational instruction immediately as an interim measure while a formal 504 meeting is convened and a comprehensive service plan is developed." Pet. Ex. 2 at 082-083.

47. Parent-1 has never observed Student in a school setting. Parent-1, Tr. Vol. I, 32:24-33:13, 43:15-22.
48. A child does not need to have a Section 504 plan to be protected under Section 504. DES-2, Tr. Vol. I, 143:5-16. Depending on the situation, a child can receive interim accommodations, such as enlarged fonts for reading and preferential seating, before the initial 504 process is completed. DES-2, Tr. Vol. I, 136:21-138:19.
49. On June 9, 2025, Principal replied to Parent-1's 6/06/2025 email, informing Parent-1 that Assistant Principal would work with the DOE and the district teams to respond to Parents' request. DOE Ex. 77 at 357.
50. Also on June 9, 2025, SSC emailed to Parents a copy of a "Request for Home-Hospital Instruction Services" ("HHI") form for Parents to fill out with the following instructions: "Please have treating physician cite 'Homebound Instruction' in Section II, and medical doctor's projected duration of/for homebound instruction (HB). Parents will complete Section I. Sec. III is for the school. As completed HB request is returned we will send days/times we can meet to discuss homebound request's effect on your child's IEP." SSC further wrote in the email: "Section 504 and Individualized Education Program (IEP) are both data-driven processes. The constellation of data on behalf of your child indicates the need for specialized instruction and a program placement. Section 504

Plans only provide Accommodations. Your [child's] data shows that an IEP is necessary, appropriate.” DOE Ex. 78 at 359-370.

51. Section I of the HHI form is a one (1) page document for parents or guardians to fill out if they are requesting that home-hospital instruction services be provided to their children. In their request for HHI services, parents/guardians would also indicate whether or not they give the school, the licensed physician, licensed psychiatrist, licensed psychologist, and the Department of Health Public Health Nurse consent to release and discuss their children's health information. Parents/guardians are informed that should they deny consent to release and discuss their children's health information, their HHI request may be denied. Pet. Ex. 2 at 103.

52. Section II of the HHI form is a one (1) page document for a licensed physician, psychologist or psychiatrist to fill out and reads:

Please check applicable boxes below and complete requested information.

The student has a physical/mental health condition that requires the student to be confined to his/her home or hospital for a minimum of ten (10) consecutive school days;

Briefly describe the nature of student's temporary physical/mental health condition that requires student to be absent from school for a minimum of ten (10) consecutive school days and to receive Home Hospital Instruction Services:

physical/mental \_\_\_\_\_.

psychological \_\_\_\_\_.

Is this student **able** to function for a shortened day or with other accommodations?  Yes  No

If the student **is able** to function for a shortened day, are there any restrictions?  Yes  No

If the student is able to function for a shortened day, please describe restrictions: \_\_\_\_\_.

Does the student have a communicable disease that poses a risk to the homebound tutor of becoming infected or carrying it to another student?  
 Yes  No

Based on my examination, the above named student **has** a serious, acute illness, injury or long-term medical condition such that the student is unable to attend school.  Yes  No

If yes, the above named student is not able to attend school for \_\_\_\_ weeks.  
**Expected return** to school date: \_\_\_\_\_.

Pet. Ex. 2 at 104; DOE Ex. 125 at 732 (bold in original).

53. Section III of the HHI form is a one (1) page document for a school and District Office to fill out indicating whether or not parents/guardians' request for HHI services is approved. A school filling out Section III must provide information regarding the tutorial assistance that will be provided (subject area, description of class assignments/assessments/due dates, and instructional materials); a transition plan; tutor's name and phone number; total number of hours of tutorial assistance per week with beginning and end dates; and date of when the child will return to school. Section III contains a note that states: "Services will only be provided if a parent or legal guardian, or an adult, authorized in writing by the Parent(s)/legal guardian(s), is present for the duration of tutorial sessions. Sessions must be conducted in the home or hospital setting." Pet. Ex. 2 at 105.
54. When a child receives HHI services, the child will usually get a tutor who goes into the home or hospital to provide instruction in the four (4) content areas—language arts, math, science, and social studies. It is a maximum of four (4) hours per week. It is anticipated that the child will eventually transition back to school. HHI services should

not exceed six (6) months. DES-2, Tr. Vol. I, 111:5-112:22. HHI services are meant to be temporary support for a child who is going through a medical or mental health condition and cannot attend school for ten (10) or more days. HHI is a temporary support that does not change a child's placement. DES-2, Tr. Vol. I, 131:15:18. A child receiving HHI services would typically not receive other types of services, such as occupational therapy and physical therapy. DES-2, Tr. Vol. I, 132:19-25

55. HHI services are available to children who have Section 504 plans, IEPs, or are general education students once they fill out an HHI form. DES-2, Tr. Vol. I, 128:6-129:5. The HHI form gives Home School consent to send a tutor to the child's home. DES-2, Tr. Vol. I, 140:24-141:21; Assistant Principal, Tr. Vol. II, 247:18-20. Home School can provide services without a completed HHI form if the school has all the information to design a child's instruction at home. In Student's case, the school needed the medical information in the HHI form to determine how to best assist Student and to define what the accommodation would look like. Home School also needed the completed HHI form to go into Student's home. Assistant Principal, Tr. Vol. II, 247:11-248:3.
56. Also on June 9, 2025, Assistant Principal responded to Parent-1's request for a meeting and asked Parents for their availability. DOE Ex. 79 at 371-372.
57. On June 16, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED] "due to medical reasons" and would provide medical documentation when available. DOE Ex. 81 at 376.
58. Also on June 16, 2025, Parent-1 and Home School agreed to schedule the meeting for July 1, 2025. DOE Ex. 80 at 373-375; DOE Ex. 82 at 377; DOE Ex. 83 at 378.

59. On June 23 and 30, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED] “due to medical reasons” and would provide medical documentation when it was available. DOE Ex. 84 at 379; DOE Ex. 85 at 380.
60. On July 1, 2025, Parent-1, Mr. Peck, SSC, DES-2, Assistant Principal, Ms. Horiuchi, and other individuals met for a meeting where the team discussed Parent-1’s 6/06/2025 email requesting accommodations, whether an evaluation under Section 504 was warranted, Student’s eligibility under Section 504, and whether Parents were asking for a Section 504 plan in addition to an IEP. When DES-2 asked the team whether a 504 evaluation was appropriate, Mr. Peck replied that in his and Parent-1’s opinion, the team had enough information to consider whether Student was eligible and that if they needed further information, they should address what that information was. DOE Ex. 130 at 00:29:02-00:30:50. The school members of the team determined that a Section 504 evaluation was not warranted because Home School had sufficient data. The school members of the team believed that Student needed accommodations and specially designed instruction, which were only available through an IEP. The school members of the team determined that all needed accommodations could be provided through Student’s IEP, and therefore the Section 504 process did not need to move forward. DOE Ex. 130 at 00:13:17-00:14:54, 00:17:02-00:24:05, 00:29:02-00:30:50, 00:36:10-00:37:21, 41:22-45:31. Student’s eligibility under Section 504 was not an issue and it was determined that Student was eligible. DOE Ex. 130 at 00:07:54-00:08:37, 00:38:27-00:39:20.

61. During the 7/01/2025 meeting, SSC confirmed, and Parent-1 acknowledged, that an HHI form was sent to Parent-1. SSC also informed Parent-1 that Home School needed a completed HHI form before Student could start receiving HHI services. DOE Ex. 130 at 00:00:04-00:01:06, 00:48:35-00:48:42. SSC also informed Parent-1 that the instructor/tutor who would be providing HHI services to Student at home would be able to gather information about Student, which then could be used to discuss homebound placement. SSC stated that such information from the instructor/tutor was needed because the information that Home School had at that moment was that Student performed well while in school, communicated well [REDACTED]<sup>6</sup>, and was engaged when receiving occupational therapy and physical therapy services at school. DOE Ex. 130 at 00:02:57-00:04:47. Ms. Horiuchi, counsel for DOE, reiterated that Home School was in receipt of Parents' request to have instruction provided in the home, but needed additional information through a completed HHI form; and then if homebound placement was needed after gathering some data, the IEP team could reconvene to determine if a change in placement to homebound was appropriate. DOE Ex. 130 at 00:09:22-00:10:20. SSC also stated that Home School did not have any information regarding a [REDACTED] that Private Psychiatrist referenced, did not know the basis for Private Psychiatrist's recommendation that Student receive educational services at home, and would need medical information that Student had a [REDACTED] DOE Ex. 130 at 00:00:04-00:04:47, 00:05:01-00:05:36, 00:06:28-00:07:40.

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[REDACTED] DES-2, Tr. Vol. I, 107:20-24.

62. During the 7/01/2025 meeting, Assistant Principal explained the difference between HHI services (temporary support) and homebound placement (long term and an IEP team decision). DOE Ex. 130 at 00:05:46-00:06:28.
63. During the 7/01/2025 meeting, Ms. Horiuchi stated that it was her understanding that Parent-1's Section 504 request for accommodation was asking for HHI. Mr. Peck replied that Home School had not addressed their request sufficiently. When Ms. Horiuchi asked for clarification on the request that Parent-1 was making, Mr. Peck declined to explain what accommodations Parent-1 was seeking if not HHI. DOE Ex. 130 at 00:11:58-00:13:15. The team also discussed Parent-1's request for "interim home based instruction" and that the "interim home based instruction" would be set up once Parents provided the information requested in the HHI form. DOE Ex. 130 at 00:15:22-00:17:01.
64. During the 7/01/2025 meeting, Parent-1 and Mr. Peck did not articulate what "home-based educational services" or "immediate interim home-based instruction" meant if these terms did not mean HHI services. If these terms meant homebound placement, Parent-1 and Mr. Peck did not clearly state this during the 7/01/2025 meeting. DOE Ex. 130 at 00:04:47-00:05:01, 00:10:20-00:10:54, 00:34:34-00:35:35. While Mr. Peck was speaking on behalf of Parent-1, no school member prevented Parent-1 from speaking.
65. During the 7/01/2025 meeting, Mr. Peck repeatedly represented to the team that he and Parents would provide a completed HHI form to the school. DOE Ex. 130 at 00:07:40-00:07:53, 00:10:20-00:10:54, 00:12:26-00:12:45, 00:15:22-00:16:01, 00:27:16-00:27:38; Parent-1, Tr. Vol. I, 49:18-50:7. Ms. Horiuchi confirmed that Home School would wait for the completed HHI forms, and once received would set up "interim home based

instruction” as requested in Parent-1’s 6/06/2025 email, which would be in the form of HHI services. DOE Ex. 130 at 00:15:22-00:17:01, 00:26:37-00:27:15. Mr. Peck acknowledged during the 7/01/2025 meeting that they were in a Section 504 meeting. DOE Ex. 130 at 00:33:32-00:34:21.

66. During the 7/01/2025 meeting, Parent-1 did not reject HHI services<sup>7</sup>. See DOE Ex. 130 generally.

67. In a Prior Written Notice, dated July 1, 2025, Home School proposed/refused the following actions: “(1)...Once completed HHI request is returned a meeting would be scheduled to discuss HHI request and any effects HHI may have on [Student’s] Annual IEP... (2) When considering [Student’s] Individuals with Disabilities Education Act (IDEA) eligibility...[the] data indicate that eligibility under IDEA is appropriate. Although evaluation – eligibility procedures for Section 504 and IDEA are nearly identical, the increased protections under IDEA are more appropriate when responding to [Student’s] functional academic, social emotional, independence needs/goals. Thus, an Evaluation process for Section 504 will not be initiated.” The PWN also notes that “The 05/27/2025 doctor’s note provided to the Department by parent cites, [REDACTED] [ ] [Student’s] IEP records are absent of any medical documentation of [REDACTED]. Hopes are that once [Student’s] private medical provider completes Section II Licensed Healthcare Provider portion of the Request for Home Hospital Instruction form, private medical provider will have

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<sup>7</sup> Petitioners’ closing brief states, “Parent tentatively agreed to explore the HHI option.” Pet. Closing Brief, p. 7.

included medical documentation of [REDACTED].” Pet. Ex. 1 at 056-057; DOE Ex. 5 at 019-020.

68. Home School could not change Student’s IEP during the 7/01/2025 meeting and would need to convene an IEP meeting to change Student’s IEP. DES-2, Tr. Vol. I, 147:22-148:12.
69. Since the 7/01/2025 meeting, Home School has not asked for an IEP meeting or Section 504 meeting to discuss whether Student should be in school or why Student was not in school or what Home School could do to address Student’s attendance. Parent-1, Tr. Vol. I, 56:2-9.
70. Homebound is the most restrictive setting in the continuum of placements under the IDEA in Hawaii. Homebound placement is long term and an IEP decision. DES-2, Tr. Vol. I, 129:6-130:3. While in homebound, a child can receive tutoring with no minimum or maximum number of hours so long as the child’s actual needs are met. DES-2, Tr. Vol. I, 131:22-132:18. A child placed in homebound will be able to receive other types of services, such as occupational therapy and physical therapy, if they are needed to meet that child’s needs and are in his/her IEP. DES-2, Tr. Vol. I, 133:1-9.
71. On July 2, 2025, SSC faxed a message to Private Psychiatrist, asking Private Psychiatrist to complete Section II of the HHI form. SSC also asked Private Psychiatrist the following questions: “Your 05/27/2025 letter states that Student has a [REDACTED] [REDACTED] Can you please provide information and documentation regarding [REDACTED]? If Student’s cognitive or emotional challenges will impact the provision of educational services in the home-based setting (e.g., frequency or duration of educational services, the time of day when services could be provided),

please include such information in you [sic] Verification. This information will assist [Home School's] efforts in designing home-based educational services for Student.”

DOE Ex. 125 at 729-732.

72. On July 3, 2025, SSC sent an email to Private Psychiatrist to follow up on the documents SSC had faxed to Private Psychiatrist the day before. DOE Ex. 86 at 381.
73. Also on July 3, 2025, SSC emailed to Parents a copy of the October 2022 ESR; a Prior Written Notice dated 07/01/2025; a copy of the 5/19/2025 IEP; and a copy of “Rights of Parents and Students Under Section 504, Subpart D and Hawaii Law and Regulations.” Pet. Ex. 2 at 071-078; DOE Ex. 87 at 382-417.
74. Parent-1 did not submit an HHI form to Home School and Home School did not receive a completed HHI form from Parents<sup>8</sup>. Home School could not implement HHI services without the completed HHI forms. Parent-1, Tr. Vol. I, 21:23-25; DES-2, Tr. Vol. I, 93:2-8, 101:21-102:22, 140:24-141:21; Assistant Principal, Tr. Vol. II, 246:1-247:10, 248:1-249:5.
75. On July 8, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED] “due to medical reasons” and medical documentation would be provided to Home School once it was available. DOE Ex. 88 at 418.
76. On August 10, 18, and 25 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED] “due to medical reasons”

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<sup>8</sup> Petitioners’ disclosures contain a mostly completed HHI form, but this form was not given to Home School prior to the due process hearing. The HHI form is not complete because Parent-1 did not check off the section “Consent for Release and Discussion of Health Information.” Pet. Ex. 2 at 103-105.

and medical documentation would be provided to Home School once it was available.  
DOE Ex. 95 at 465; DOE Ex. 96 at 466; DOE Ex. 98 at 468.

77. On August 27, 2025, a triennial reevaluation meeting was held. Parent-1 and Mr. Peck were in attendance and did not request an evaluation or any assessments. Home School also did not request any additional assessments or an evaluation. Parent-1, Tr. Vol. I, 24:9-19; Assistant Principal, Tr. Vol. II, 271:13-18. The meeting on August 27, 2025 was not an IEP meeting and Student's IEP was not discussed.
78. On September 1, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED] "due to medical reasons" and medical documentation would be provided once it was available. DOE Ex. 100 at 515.
79. After the 8/27/2025 triennial reevaluation meeting, a Prior Written Notice, dated September 2, 2025, was issued by Home School ("9/02/2025 PWN"). According to the 9/02/2025 PWN, "On Wednesday, August 27, 2025, the team agreed that conducting the Triennial IDEA Re-Evaluation on [Student] was not necessary to determine if [Student] continues to qualify for Special Education services in the State of Hawaii.... [Student] continues to be eligible for Special Education services under the eligibility category of Intellectual Disability (ID)." The 9/02/2025 PWN also states that "[Student's] eligibility to receive Special Education services is not in question, and the team can identify [Student's] needs for programming purposes without an evaluation." Pet. Ex. 2 at 069-070; DOE Ex. 8 at 024-025.
80. On September 7, 15, 22, and 29, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED] [REDACTED] "due to medical reasons" and that a medical documentation

would be provided to Home School once it was available. DOE Ex. 101 at 516; DOE Ex. 103 at 520; DOE Ex. 105 at 524; DOE Ex. 106 at 525.

81. On October 2, 2025, the instant Complaint was received by the DOE.
82. On October 5, 13, 20, and 26, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED] “due to medical reasons.” DOE Ex. 109 at 530; DOE Ex. 110 at 531; DOE Ex. 111 at 532-540; DOE Ex. 114 at 545.
83. On November 3, 9, 16, and 24, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED] “due to medical reasons.” DOE Ex. 115 at 546; DOE Ex. 116 at 547; DOE Ex. 117 at 548; DOE Ex. 118 at 549.
84. On December 1, 2025, Parent-1 informed Home School that Student would be absent from school on [REDACTED] “due to medical reasons.” DOE Ex. 119 at 550.

## V. CONCLUSIONS OF LAW

### A. **BURDEN OF PROOF**

Pursuant to Hawaii Administrative Rules § 8-60-66(a)(2)(A), “the party initiating the due process complaint has the burden of proof.” The Hawaii Administrative Rules also state that “[t]he burden of proof is the responsibility of the party initiating and seeking relief in an administrative hearing under the IDEA or this chapter is to prove, by a preponderance of the evidence, the allegations of the complaint.” H.A.R. § 8-60-66(a)(2)(B).

The Supreme Court held in Schaffer that “[t]he burden of proof in an administrative hearing challenging an IEP is properly placed upon the party seeking relief.” Schaffer v. Weast, 546 U.S. 49, 126 S. Ct. 528, 163 L.Ed.2d 387 (2005). The Court “conclude[d] that the burden of

persuasion lies where it usually falls, upon the party seeking relief.” Id. at 535. Neither Schaffer nor the text of the IDEA supports imposing a different burden in IEP implementation cases than in formulation cases.

## **B. IDEA REQUIREMENTS**

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 (2008)(citing 20 U.S.C. § 1400(d)(1)(A)). A free and appropriate public education (“FAPE”) includes both special education and related services. H.A.R. § 8-60-1; H.A.R. § 8-60-3; 20 U.S.C. § 1401(9); 34 C.F.R. § 300.34; 34 C.F.R. § 300.39; 34 C.F.R. § 300.101.

Special education means “specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability” and related services are the supportive services required to assist a child with a disability to benefit from special education. 34 C.F.R. § 300.34; 34 C.F.R. § 300.39; 20 USC § 1401(26) and (29). To provide 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.” Dept. of Educ. of Hawaii v. Leo W., 226 F.Supp.3d 1081, 1093 (D. Haw.2016).

In Bd. of Educ. v. Rowley, the Court set out a two-part test for determining whether the school offered a FAPE: (1) whether there has been compliance with the procedural requirements of the IDEA; and (2) whether the IEP is reasonably calculated to enable the student to receive educational benefits. Rowley, 458 U.S. 176, 206-207, 102 S. Ct. at 3050-3051 (1982). “A state must meet both requirements to comply with the obligations of the IDEA.” Doug C. v. Hawaii

Dept. of Educ., 720 F.3d 1038, 1043 (9th Cir.2013) (quoting Rowley). See also, Amanda 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. v. Clark County Sch. Dist., 267 F.3d 877, 892 (9th Cir.2001). 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. Amanda J., 267 F.3d 877, 892 (9th Cir.2001).

The school is not required to "maximize the potential" of each student; rather, the school 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. However, the United States Supreme Court in Endrew F. v. Douglas County Sch. Dist. held that the educational benefit must be more than *de minimus*. 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. v. Douglas County Sch. Dist., 137 S. Ct. 988, 1001 (2017). See also, Blake C. v. Hawaii Dept. of Educ., 593 F.Supp.2d 1199, 1206 (D. Haw.2009).

The mechanism for ensuring a FAPE is through the development of a detailed, individualized instruction plan known as an Individualized Education Program ("IEP") for each child. 20 U.S.C. §§ 1401(9), 1401(14), and 1414(d). The IEP is a written statement, prepared at a meeting of qualified representatives of the local educational agency, the child's teacher(s), parent(s), and where appropriate, the child. The IEP contains, among other things, a statement of the child's present levels of academic achievement and functional performance, a statement of

the child’s annual goals and short-term objectives, and a statement of specific educational services to be provided for the child. 20 U.S.C. § 1414(d). The IEP is reviewed and, if appropriate, revised, at least once annually. 20 U.S.C. § 1414(d). The IEP is, in effect, a “comprehensive statement of the educational needs of a handicapped child and the specially designed instruction and related services to be employed to meet those needs.” Burlington v. Dept. of Educ. of the Commonwealth of Massachusetts, 471 U.S. 359, 368, 105 S. Ct. 1996, 2002 (1985). An IEP must be evaluated prospectively as of the time it was created. Retrospective evidence that materially alters the IEP is not permissible. R.E. v. New York City Dept. of Educ., 694 F.3d 167 (2nd Cir.2012).

### **C. SECTION 504 REQUIREMENTS**

Section 504 of the Rehabilitation Act of 1973 (“Section 504”) provides that “[n]o qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance.” 34 C.F.R. § 104.4(a). Section 504 is designed to prevent disability discrimination in preschool, elementary, secondary, and adult education programs or activities that receive federal financial assistance. 34 C.F.R. §§ 104.1, 104.31. Public elementary and secondary education programs are required to provide a FAPE to qualified handicapped students, regardless of the nature or severity of the students’ handicap. 34 C.F.R. § 104.33(a). “[T]he provision of an appropriate [public] education is the provision of 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 §§ 104.34, 104.35, and 104.36.” 34 C.F.R. § 104.33(b). “[U]nlike FAPE under the IDEA, FAPE

under § 504 is defined to require a comparison between the manner in which the needs of disabled and non-disabled children are met, and focuses on the ‘design’ of a child’s educational program.” Mark H. v. Lemahieu, 513 P.3d 922, 933 (9th Cir.2008).

To establish a violation of Section 504, Petitioners must prove that (1) Student is disabled as defined by the Act; (2) Student is otherwise qualified to participate in school activities; (3) the school or the board of education receives federal financial assistance; and (4) Student was excluded from participation in, denied the benefits of, or subject to discrimination at, the school. 34 C.F.R. § 104.4(a); M.D. v. Colonial School District, 539 F.Supp.3d 380, 396-397 (U.S. Dist. Court, E.D. Penn. May 13, 2021).

#### **D. ISSUES FOR DETERMINATION**

- 1. Whether the DOE violated Section 504, 34 C.F.R. § 104.35, by failing to initiate a Section 504 evaluation after receiving Petitioners’ written request for reasonable accommodations supported by [REDACTED] documentation.**

In this allegation, Petitioners allege that the DOE failed to initiate an evaluation under Section 504 after receiving Parent-1’s 6/06/2025 email, requesting reasonable accommodations, and Private Psychiatrist’s 5/27/2025 letter. After receiving Parent-1’s 6/06/2025 email, Parent-1 and Home School agreed to meet on July 1, 2025 to discuss Parent-1’s 6/06/2025 email. (FOF 49, 56, 58). During the 7/01/2025 meeting, the team discussed whether an evaluation under Section 504 was warranted and the school members of the team determined that it was not warranted because Home School had sufficient data and Student needed not only accommodations, but also specifically designed instruction, which was only available through an IEP. (FOF 60). On August 27, 2025, a meeting was held to discuss Student’s triennial reevaluation and the team, inclusive of Parent-1 and Mr. Peck, did not ask for an evaluation or

any assessments. (FOF 77). Petitioners fail to meet their burden of proof with respect to this issue.

As an initial matter, Hawaii schools are not required to provide IDEA-eligible students with an IEP and Section 504 plan. In this case, Student is eligible for special education and related services under the IDEA, and no one is alleging that Student is no longer eligible under the IDEA. Student has an IEP and Parents are not revoking Student's right to have an IEP. According to the Code of Federal Regulations that govern nondiscrimination on the basis of handicap in programs or activities receiving federal financial assistance, a recipient that operates a public elementary or secondary education program or activity shall provide FAPE to qualified handicapped people. 34 C.F.R. § 104.33(a). Under Section 504, the "provision of an appropriate education is the provision of 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 §§ 104.34, 104.35, and 104.36." 34 C.F.R. § 104.33(b)(1). Pursuant to 34 C.F.R. § 104.33(b)(2), "Implementation of an Individualized Education Program developed in accordance with the Education of the Handicapped Act is one means of meeting the standard established in paragraph (b)(1)(i) of this section." The relationship between an IEP and the standard established in 34 C.F.R. § 104.33(b)(1)(i) was addressed recently in 2025 in an appeal before the Ninth Circuit Court of Appeals, which held that "Finally, [Plaintiff's] claim under Section 504 of the Rehabilitation Act fails '[b]ecause a school district's provision of a FAPE under the IDEA meets Section 504 FAPE requirements.'" Banta v. Hayashi, 2025 WL 546353,

at FN1 (9th Cir.2025)<sup>9</sup> (quoting K.M. ex rel. Bright v. Tustin Unified Sch. Dist., 725 F.3d 1088, 1099 (9th Cir.2013)).

Furthermore, although not binding legal authority, the Office of Civil Rights in the United States Department of Education (“OCR”) addresses the question of whether a school must develop a Section 504 plan for children who are already eligible under the IDEA in *Protecting Students with Disabilities Frequently Asked Questions About Section 504 and the Education of Children with Disabilities*:

If a student is eligible for services under both the IDEA and Section 504, must a school district develop both an individualized education program (IEP) under the IDEA and a Section 504 plan under Section 504?

No. If a student is eligible under IDEA, he or she must have an IEP. Under the Section 504 regulations, one way to meet Section 504 requirements for a free appropriate public education is to implement an IEP.

123 LRP 33181 (July 18, 2023), page 9, question 35.

The Office of Civil Rights’ guidance comports with a 1996 decision by the Ninth Circuit Court of Appeals in Pasatiempo v. Aizawa. According to the Ninth Circuit Court in Pasatiempo v. Aizawa, “Parents and Students [ ] allege that the DOE had no regulations in place for implementing § 504. However, because the regulations provide that § 504 requirements may be satisfied by complying with IDEA’s procedural mandates, 34 C.F.R. § 104.36, the DOE’s adoption of rules implementing the IDEA satisfies its burden under § 504. *See* Haw. Admin. R. 8-36-1.” Pasatiempo v. Aizawa, 103 F.3d 796, 804 (9th Cir.1996). Therefore, while schools may, if they choose, provide IDEA-eligible students with an IEP and Section 504 plan, this is not a requirement.

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<sup>9</sup> Banta v. Hayashi is available on Westlaw, a publicly accessible electronic database, at 2025 WL 546353. Fed. R. App. P. 32.1(b).

As for whether Home School should have initiated a Section 504 evaluation after receiving Parent-1's request for accommodations on June 6, 2025, Section 504 evaluations are governed by 34 C.F.R. § 104.35. Pursuant to 34 C.F.R. § 104.35(d), DOE must "establish procedures, in accordance with paragraph (b) of this section, for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act is one means of meeting this requirement." 34 C.F.R. § 104.35(d). According to OCR, "School districts may use the same process to evaluate the needs of students under Section 504 as they use to evaluate the needs of students under the IDEA. If school districts choose to adopt a separate process for evaluating the needs of students under Section 504, they must follow the requirements for evaluation specified in the Section 504 regulatory provision at 34 C.F.R. 104.35." 123 LRP 33181 (July 18, 2023), page 6, question 19<sup>10</sup>. In Hawaii, the evaluation/eligibility procedures for Section 504 and the IDEA are nearly identical (FOF 67), and Petitioners did not produce any evidence to show how a Section 504 evaluation is different from an evaluation under the IDEA. Therefore, since Student is IDEA-eligible and has an active IEP, Home School was not required to conduct an evaluation under Section 504 after receiving Parent-1's request on June 6, 2025.

**2. Whether the DOE violated Section 504 by failing to convene a Section 504 team meeting within a reasonable time following Petitioners' June 6, 2025, request.**

In this issue, Petitioners are alleging that the DOE failed to convene a Section 504 team meeting after receiving Parent-1's 6/06/2025 email and "no such team was ever convened to address the June 6, 2025 request." Pet. Closing Brief, p. 13. Based on the evidence, Petitioners

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<sup>10</sup> OCR also opined that "Compliance with the IDEA regarding the group of persons present when an evaluation or placement decision is made is satisfactory under Section 504." 123 LRP 33181 (July 18, 2023), page 6, question 18.

fail to meet their burden of proof with respect to this issue.

After receiving Parent-1's 6/06/2025 email, on June 9, 2025, Principal informed Parent-1 that Assistant Principal would be working with the DOE to respond to Parent-1's 6/06/2025 request, and SSC sent Parent-1 a copy of an HHI form with instructions on how to fill out the form<sup>11</sup>. (FOF 49, 50). SSC informed Parent-1 that once Home School received a completed HHI form, Home School would suggest days/times that they could meet to discuss how "homebound" would affect Student's IEP. (FOF 50). Later that same day, Assistant Principal sent a separate email to Parents asking them for their availability to schedule a meeting. (FOF 56). On June 16, 2025, Parent-1 and Home School agreed to meet on July 1, 2025. (FOF 58).

On July 1, 2025, Parent-1, Mr. Peck, SSC, DES-2, Assistant Principal, Ms. Horiuchi, and others met for a meeting. (FOF 60). During the 7/01/2025 meeting, the team discussed the email that Parent-1 sent on June 6, 2025 and the requests made in that email, Section 504, interim accommodations, HHI services, and Student's need for an evaluation. (FOF 60-66). The team determined that Student continued to be eligible for special education and related services under the IDEA. The school members of the team determined that since the evaluation/eligibility procedures for Section 504 and IDEA were nearly identical, an evaluation under Section 504 would not be initiated. (FOF 60, 67). Mr. Peck acknowledged during the 7/01/2025 meeting that they were in a Section 504 meeting. (FOF 65). Whether what transpired during the 7/01/2025 meeting was satisfactory to Petitioners is a separate matter. Although Petitioners may disagree with what occurred during the 7/01/2025 meeting, a Section 504 meeting was nevertheless held within a reasonable time. Therefore, Petitioners fail to meet their

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<sup>11</sup> The undersigned takes judicial notice of the fact that June 6, 2025 is a Friday and June 9, 2025 is a Monday.

burden of proof with respect to this issue.

**3. Whether the DOE violated Section 504, 34 C.F.R. §§ 104.33–104.34, by failing to provide interim reasonable accommodations—such as home-based instruction or other [REDACTED] necessary supports—while the request for accommodations was pending.**

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In this issue, Petitioners are alleging that the DOE violated Section 504 because “The DOE provided no interim accommodations from June 6, 2025 forward.” Pet. Closing Brief, p. 14. Petitioners also argue that “Parent testified that [he/she] was never asked for additional information and was never offered any interim services while the request was pending.” Pet. Closing Brief, p. 14. Based on the evidence, Petitioners fail to meet their burden of proof with respect to this issue.

A recipient of federal funds violates Section 504 “if it denies a qualified individual with a disability a reasonable accommodation that the individual needs in order to enjoy meaningful access to the benefits of public services.” Mark H. v. Hamamoto, 620 F.3d 1090, 1097 (9th Cir. 2010). A school district violates Section 504 by denying a student a reasonable accommodation if (1) the student needs a specific educational service to enjoy meaningful access to the benefits of a public education; (2) the school district was on notice that the student needed the service, but did not provide the service, and (3) the service was available as a reasonable accommodation. Hamamoto, 620 F.3d at 1097 (citation omitted).

Reasonableness [of an accommodation] “depends on the individual circumstances of each case, and requires a fact-specific, individualized analysis of the disabled individual’s circumstances and the accommodations that might allow him to [enjoy meaningful access to the program.]” Vinson v. Thomas, 288 F.3d 1145, 1154 (9th Cir.2002) (internal citation and quotation marks omitted). An accommodation is reasonable if it is “reasonable on its face, *i.e.*, ordinarily or in the run of cases.” U.S. Airways, Inc. v. Barnett, 535 U.S. 391, 402, 122 S.Ct. 1516, 152 L.Ed.2d 589 (2002)... “[the Rehabilitation Act] create[s] a duty to gather sufficient information from the disabled individual and qualified experts as needed to determine what accommodations are necessary.” Duvall, 260 F.3d at 1136 (internal quotation marks omitted).

Mark H. v. Hamamoto, 620 F.3d at 1098. “Reasonable accommodation does not require an organization to make fundamental or substantial alterations to its programs.” Hamamoto, 620 F.3d at 1098.

Student is a qualified individual with a disability as defined by 34 C.F.R. §§ 104.3(j), (l)(2), (m); however, Student was not denied interim reasonable accommodation. Home School convened a meeting to discuss Parent-1’s 6/06/2025 email within a reasonable time. (FOF 56, 58, 60). Prior to the 7/01/2025 meeting, SSC sent Parents a “Request for Home-Hospital Instruction Services” form to fill out. (FOF 50). During the 7/01/2025 meeting, Home School offered HHI services as interim accommodation but needed the HHI form filled out. (FOF 61, 63-65). A completed HHI form would not only give Home School consent to send a tutor into Student’s home but would also provide Home School with information to design the accommodation. (FOF 55). Although Private Psychiatrist’s 5/27/2025 letter recommends that Student receive “educational services in a home-based setting for the foreseeable future” to protect Student’s [REDACTED] it does not have the information Home School needs to design the HHI services, such as details about [REDACTED] [REDACTED] (FOF 45, 52). Knowing such information doesn’t only help design the interim accommodation but also protects the tutor who will be going into Student’s home<sup>12</sup>. Therefore, Student was not excluded from participation in or denied the benefits of the school. Also, asking Parents to fill out the HHI form is not discriminatory because it has legitimate

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<sup>12</sup> Although Private Psychiatrist’s 5/27/2025 letter did not have sufficient information needed to design the HHI services, it was sufficient to trigger Home School’s duty to gather data using the consent form submitted by Parents on May 20, 2025, and schedule an IEP meeting. (FOF 41). See Issues 6 and 7.

purposes and all students, whether special needs or nondisabled, are asked to fill out HHI forms. (FOF 55).

Furthermore, during the 7/01/2025 meeting, Ms. Horiuchi stated that it was her understanding that Parent-1's Section 504 request for accommodation was asking for home-hospital instruction. Mr. Peck replied that Home School had not addressed their request sufficiently. When Ms. Horiuchi asked for clarification on the request that Parent-1 was making, Mr. Peck declined to explain what accommodations Parent-1 was seeking if not HHI. (FOF 63). The team also discussed Parent-1's request for "interim home based instruction" and that the "interim home based instruction" would be set up once Parents provided the information requested in the HHI form. (FOF 63). The school members of the team also informed Parent-1 and Mr. Peck that once the requested information on the HHI form was submitted, Home School would look for a tutor to send to Student's home and the tutor would be able to gather data while at Student's home. The data would then be used to discuss homebound instruction, which is a change in placement. (FOF 61). Although Mr. Peck repeatedly stated during the 7/01/2025 meeting that Parents would submit an HHI form, the HHI form was never completed and given to Home School. (FOF 65, 74). See Pet. Closing Brief, p. 9. Although asked to explain what accommodations Parent-1 was seeking if not HHI, neither Parent-1 nor Mr. Peck explained or elaborated. (FOF 63, 64). Home School was not required to guess what accommodations Parent-1 wanted. "[P]arents must talk, or complain, when given the chance. Timely input can allow a school district to respond meaningfully to parental requests." Schoenbach v. D.C., 309 F.Supp.2d 71, 89 (U.S.D. Dist. of Columbia March 25, 2004).

Lastly, during the 7/01/2025 meeting, Parent-1 did not reject HHI services when it was offered. (FOF 66). For these reasons, it was reasonable for Home School to request a completed

HHI form. Parents having not provided Home School with a completed HHI form, even though Mr. Peck assured the team numerous times during the 7/01/2025 meeting that the form would be completed, the interim accommodation offered by Home School was effectively rejected by Parents<sup>13</sup>. Therefore, based on the foregoing, Petitioners fail to meet their burden of proof in showing that DOE violated Section 504 by failing to provide interim reasonable accommodations while the request for accommodation was pending<sup>14</sup>.

**4. Whether the DOE violated Section 504 by conditioning its duty to evaluate and accommodate Student on submission of the DOE’s internal “Home Hospital Instruction (HHI)” form despite having sufficient [REDACTED] documentation demonstrating a disability-related need for accommodations.**

As discussed *supra* in Issue 1, DOE was not obligated to evaluate Student under Section 504 since Student was deemed eligible for special education and related services under the IDEA and was provided an IEP. Also, as discussed *supra* in Issue 3, it was appropriate for Home School to ask Parents to fill out an HHI form, and DOE offered HHI services as an accommodation, but Parents rejected this accommodation. See Pet. Closing Brief, p. 26. Therefore, Petitioners fail to meet their burden in showing that DOE violated Section 504 by conditioning its duty to evaluate and accommodate Student on submission of the DOE’s internal HHI form despite having sufficient medical documentation demonstrating a disability-related need for accommodations.

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<sup>13</sup> Petitioners’ argument that Mr. Peck did not specifically say Parents would submit an “HHI enrollment form,” but was referring to “[REDACTED] generally,” is unpersuasive because Ms. Horiuchi stated that Home School needed some additional information through the HHI form. Pet. Closing Brief, p. 11; DOE Ex. 130 at 00:09:22-00:10:20.

<sup>14</sup> Petitioners did not proffer any evidence regarding what “other [REDACTED] supports” Home School should have considered but did not. Although Petitioners’ Closing Brief argues that Home School did not offer “remote services,” Petitioners fail to proffer any evidence during the hearing to show that remote services were requested, and Home School failed to consider it or denied it. Pet. Closing Brief, p. 14.

**5. Whether the DOE violated Section 504 by declining to conduct a Section 504 evaluation or consider 504 accommodations based on the mistaken belief that IDEA eligibility displaced or eliminated the DOE’s independent obligations under Section 504.**

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As discussed *supra* in Issue 1, DOE was not obligated to evaluate Student under Section 504 since Student was deemed eligible for special education and related services under the IDEA and was provided with an IEP. (FOF 34). Petitioners argue that “In Hawaii, the DOE may satisfy Section 504 obligations through the IDEA process – but only by actually using the IDEA process to address the identified needs. The DOE did not do that.” Pet. Closing Brief, p. 16. Petitioners’ argument is unpersuasive. During the 7/01/2025 meeting, Home School informed Parent-1 and Mr. Peck that the tutor who would be providing Student with HHI services in the home would also be able to collect data that can be used to discuss a placement change if appropriate. (FOF 61). After the 7/01/2025 meeting, SSC attempted to obtain information from Private Psychiatrist (FOF 71, 72), and Home School held a triennial reevaluation meeting to determine Student’s continued eligibility under the IDEA and identify Student’s needs. (FOF 79). Parent-1, Mr. Peck and Home School did not request an evaluation or assessments to determine eligibility or needs during the triennial reevaluation on August 27, 2025<sup>15</sup>. (FOF 77). After going through the IDEA process, Student was deemed to continue to be eligible for special education and related services, and the team believed that they had sufficient information to identify Student’s needs. (FOF 79). Since Student continues to be IDEA-eligible, a separate 504 evaluation is not required.

Also, as discussed *supra* in Issue 3, DOE offered interim accommodation, in the form of

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<sup>15</sup> Whether the team, inclusive of Parent-1 and Mr. Peck, made the right decisions during the 8/27/2025 reevaluation meeting is a separate matter and addressed in Issue 7.

HHI services, but Parents rejected this accommodation and did not inform DOE of this rejection until after the due process hearing. (FOF 61, 65, 74). See Pet. Closing Brief, pp. 9-10.

Petitioners also fail to show that Parents had requested other types of reasonable accommodations<sup>16</sup> and Home School failed to consider it or denied it.

Therefore, Petitioners fail to meet their burden in showing that DOE violated Section 504 by declining to conduct a Section 504 evaluation or consider 504 accommodations based on the mistaken belief that IDEA eligibility displaced or eliminated the DOE's independent obligations under Section 504.

**6. Whether the DOE violated the IDEA by failing to convene an IEP meeting within a reasonable time after receiving [REDACTED] evidence that Student could not attend school in-person.**

DOE violated the IDEA by failing to convene an IEP meeting within a reasonable time after receiving [REDACTED] evidence that Student could not attend school in-person. Pursuant to H.A.R. § 8-60-48(b)(1)(B)(iv), (v), DOE must revise a child's IEP, as appropriate, to address the child's anticipated needs or other matters. Student's IEP was developed on May 19, 2025 and was Student's most current IEP at the time of the due process hearing. (FOF 34). After the development of Student's 5/19/2025 IEP, Home School was provided with new information regarding Student's needs on June 6, 2025. (FOF 44, 45). On June 9, 2025, Assistant Principal

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<sup>16</sup> In Parent-1's 6/06/2025 email, Parent-1 asked for "home-based educational services" and "immediate interim home-based instruction." (FOF 44). Home School understood those terms to mean HHI services. (FOF 63, 64). Neither Parent-1 nor Mr. Peck articulated what "home-based educational services" or "immediate interim home-based instruction" meant if these terms did not mean HHI services. If these terms meant homebound placement, Petitioners did not clearly state this during the 7/01/2025 meeting. (FOF 64). In any event, the team discussed homebound placement during the 7/01/2025 meeting and the school members of the team informed Parent-1 and Mr. Peck that Home School would like to gather more information about Student through the HHI tutor before talking about changing Student's placement to homebound because the information Home School had at that time showed that Student could perform well in school. (FOF 61).

reached out to Parent-1 to schedule a mutually agreeable time for a meeting and the parties agreed to meet on July 1, 2025. (FOF 56, 58). While the parties met on July 1, 2025, the meeting was not an IEP meeting where the team could discuss Student's IEP and make changes if necessary. (FOF 68). Since the 7/01/2025 meeting, Home School has not asked Parents to have an IEP meeting. (FOF 69).

Although there was a meeting on August 27, 2025, this was not an IEP meeting. On August 27, 2025, the team met for Student's triennial reevaluation, determined that no evaluation was needed, and that Student continued to meet the eligibility for special education and related services under the IDEA. (FOF 77, 79). Based on the evidence, the triennial reevaluation meeting did not address Private Psychiatrist's 5/27/2025 recommendation that Student receive educational services at home because Student could not attend school in-person. (FOF 77, 79). Even if the team had addressed Private Psychiatrist's 5/27/2025 recommendation and Student's educational needs at the 8/27/2025 triennial reevaluation meeting, that's over two (2) months since Parent-1 provided Home School with Private Psychiatrist's recommendation for at-home services. (FOF 44). Waiting over two (2) months to have an IEP meeting is unreasonable when Student had been [REDACTED] absent from school and Home School was in possession of a letter from Student's psychiatrist stating that Student [REDACTED]

[REDACTED] (FOF 45). Petitioners have met their burden of proof with respect to this issue.

**7. Whether the DOE violated the IDEA by failing to conduct a reevaluation or perform additional assessments required to address Student's disability-related inability to attend school.**

DOE violated the IDEA by failing to conduct a reevaluation or perform additional

assessments to address Student's [REDACTED] absences from school. Pursuant to 34 C.F.R. § 300.303, a reevaluation must be conducted if DOE determines that the educational or related services needs of a child warrant a reevaluation; if a child's parent or teacher requests a reevaluation; or at least once every three (3) years unless the parent and the DOE agree that a reevaluation is unnecessary. In this case, the parties agreed that a triennial reevaluation was not necessary. (FOF 79). They were wrong in their decision. The record in this case supports a reevaluation. If not a comprehensive reevaluation with a whole host of assessments, then at a minimum an assessment on why Student was not regularly going to school since December of 2024.

Student's [REDACTED] absenteeism was a topic of concern while the IEP team was discussing Student's educational needs on May 19, 2025. (FOF 42). During the 5/19/2025 IEP meeting, the IEP team noted that Student had [REDACTED] absences from school and that these absences have impeded the gathering of evidence/data to drive any adjustments in Student's IEP. Yet the IEP team determined that it was still able to calculate an IEP that addressed Student's needs. (FOF 42). During the 5/19/2025 IEP meeting, Parents informed the school members of the IEP team that Student's absences from school were due to challenges with [REDACTED] (FOF 42). Parents also informed the school members that Student experiences [REDACTED] [REDACTED] (FOF 38). [REDACTED] the IEP team would wait for updated information. (FOF 42). Student stopped attending school sometime in May of 2025. (FOF 17).

The decision to not conduct a triennial reevaluation was wrong because Home School

saw Student infrequently before May of 2025 and had not seen Student for approximately three (3) months at the time of the 8/27/2025 triennial reevaluation meeting. Home School's understanding of Student's educational needs is likely not up to date. The last time Home School conducted a reevaluation of Student was in October of 2022, which consisted of speech/language, occupational therapy, physical therapy, [REDACTED], adaptive behavior and cognitive assessments. (FOF 7). It was unreasonable for Home School to find that it was not necessary to reassess Student's educational needs, and in particular explore why Student was experiencing so many absences, when Home School was made aware of the following facts after the October 2022 reevaluation: (1) in March of 2023, Home School received new information from Private Psychiatrist that Student [REDACTED] [REDACTED], which, in Private Psychiatrist's opinion, may be attributable to going to school [REDACTED] days a week (FOF 8); (2) Student's attendance was [REDACTED] [REDACTED] (FOF 17); (3) many of the absences were [REDACTED] [REDACTED] (FOF 14, 19, 27, 30, 32, 43, 57, 59, 75, 76, 78, 80, 82-84); (4) Parent-1 was concerned that Student was experiencing [REDACTED] [REDACTED] (FOF 44); (5) Student continued to experience [REDACTED] absences after receiving accommodations in the form of [REDACTED] in 2023 (FOF 11, 12, 46) and [REDACTED] school arrival in 2025 (FOF 38, 42, 46); and (6) [REDACTED] [REDACTED] (FOF 16, 23, 27). Home School should have sought updated data through new assessments and include an assessment to

determine why Student was missing school [REDACTED]<sup>17</sup>.

Furthermore, although Student’s disability category is Intellectual Disabilities, Home School should have conducted a sufficiently comprehensive evaluation to identify all of Student’s special education and related services needs, whether or not commonly linked to the disability category in which Student had been classified. 34 C.F.R. § 300.304(c)(6); H.A.R. § 8-60-36(c)(6). And although Home School may not know if Student’s inability to get to school is disability related, Private Psychiatrist’s 5/27/2025 letter<sup>18</sup>, coupled with Student’s [REDACTED] absences due to “[REDACTED],” were sufficient to alert DOE that Student may have a suspected disability that was not being addressed in the existing IEP. Home School’s concern that Private Psychiatrist’s 5/27/2025 recommendation may be solely based on Parents’ reporting does not invalidate Private Psychiatrist’s 5/27/2025 recommendation. If Home School had reservations or doubted Private Psychiatrist’s 5/27/2025 recommendation, Home School could have—should have—sought further information from Private Psychiatrist, using the signed consent form Parent-1 had given Home School on May 20, 2025<sup>19</sup>. (FOF 41). Student should

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<sup>17</sup> Assistant Principal testified that during the resolution meeting for this instant case, DOE offered to conduct an independent evaluation to assess Student’s ability to attend school. Assistant Principal, Tr. Vol. II, 269:23-270:4. This assessment should have been considered for the triennial reevaluation or sooner.

<sup>18</sup> Respondents’ argument that Petitioners did not introduce evidence establishing that Student has a disability-related inability to attend school that would require additional assessments is not persuasive. DOE Closing Brief, p. 33. According to Private Psychiatrist’s 5/27/2025 letter, Student has a history of [REDACTED]

[REDACTED] (FOF 45). There is no other evidence to contradict Private Psychiatrist’s medical opinion that Student’s [REDACTED]

<sup>19</sup> Although Home School was in possession of a fully executed “Consent for Release of Information” form on May 20, 2025, granting Home School permission to release and receive information from Private Psychiatrist, Home School did not seek information from Private Psychiatrist until, and except for, the request for a completed HHI form on July 2 and 3, 2025. (FOF 71, 72).

have been “assessed in all areas related to the suspected disability, including, if appropriate, health...social and emotional status....” H.A.R. § 8-60-36(c)(4). Having failed to conduct a reevaluation or perform additional assessments to address Student’s disability-related inability to attend school, DOE violated the IDEA<sup>20</sup>. Even though Parent-1 and Mr. Peck did not ask for any assessments for the triennial reevaluation, it is, “[u]ltimately, Hawaii DOE [who] is responsible for ensuring that its students receive appropriate special education services.” Mark H. v. Hamamoto, 620 F.3d 1090, 1093 (9th Cir.2010). Being able to receive appropriate special education services starts with having the appropriate assessments to identify the areas of educational needs.

Based on the foregoing, Petitioners have met their burden of proof in showing that DOE violated the IDEA by failing to conduct a reevaluation or perform additional assessments required to address Student’s [REDACTED]

**8. Whether the DOE violated the IDEA, including 34 C.F.R. § 300.115, by failing to consider home-based instruction as part of the required continuum of educational placements.**

DOE violated the IDEA by failing to consider home-based instruction as part of the continuum of educational placements. Pursuant to 34 C.F.R. § 300.115(a), DOE “must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.” The continuum of alternative placements must include instruction in regular classes, special classes, special schools, home instruction, and

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<sup>20</sup> Home School notes in its PWN for the 7/01/2025 meeting that Student’s “IEP records are absent of any [REDACTED] documentation of [REDACTED],” yet on March 6, 2023 and October 22, 2023, Home School received letters, dated December 7, 2022 and August 22, 2023, stating that Student “[REDACTED]” (FOF 8, 12). There is no record that Home School followed up for more information when it received these letters and instead chose to wait and hope that Student’s private medical provider would provide the [REDACTED] after the 7/01/2025 meeting. (FOF 61).

instruction in hospitals and institutions. 34 C.F.R. § 300.115(b)(1).

According to Student’s 5/19/2025 IEP, Student will receive specialized instruction and related services in Home School’s [REDACTED] program. However, due to Student’s inconsistent attendance, Student has not been able to transition out of “[REDACTED] to [Student’s] [REDACTED] program placement.”<sup>21</sup> (FOF 42). At the time of the 5/19/2025 IEP meeting, Student had [REDACTED] [REDACTED] absences, and the IEP team did not discuss homebound placement at the 5/19/2025 IEP meeting. (FOF 37, 42). Home School noted that “a medical diagnosis and/or medical rationale” for Student’s [REDACTED] absences was not available, and while Home School waited for updated information from Student’s private medical provider, the IEP team agreed to accommodate Student’s [REDACTED] challenges by providing Student the opportunity to arrive at school by [REDACTED] (FOF 38, 42). Shortly after the 5/19/2025 IEP meeting, Home School received updated information from Student’s private medical provider—Private Psychiatrist--on June 6, 2025. (FOF 44, 45). According to Private Psychiatrist, despite the accommodation given to Student, Student continued to experience “[REDACTED] [REDACTED]” and recommended that Student receive “educational services in a home-based setting for the foreseeable future.” (FOF 45). On July 1, 2025, Home School, determining that Private Psychiatrist’s recommendation was not sufficient to change Student’s placement, wanted to gather more data before considering if a change of placement to homebound was appropriate. (FOF 61). On July 2, 2025, SSC contacted Private Psychiatrist

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<sup>21</sup> [REDACTED]

and asked Private Psychiatrist to complete Section II of the HHI form and asked Private Psychiatrist to provide information about Student's [REDACTED] and whether Student's cognitive and emotional challenges would impact the provision of educational services in a home-based setting. (FOF 71). SSC sent a follow up email on July 3, 2025. (FOF 72). There is no evidence that Home School followed up again with Private Psychiatrist after SSC's July 3, 2025 email. When Home School did not receive a completed HHI form (FOF 74), Home School did not make further efforts to obtain information from Private Psychiatrist or attempt to set up an IEP meeting. At the time of the due process hearing, Home School still had not convened an IEP meeting to discuss whether Student's placement should be changed to homebound. (FOF 69).

Having received pertinent new information from Private Psychiatrist, Home School should have convened an IEP meeting to discuss and consider Private Psychiatrist's recommendation that Student receive educational services in a home-based setting. Home School wanting more information before discussing a placement change is reasonable; however, not receiving a response from Private Psychiatrist is not a reason to not hold an IEP meeting. The evidence does not show that Home School exerted a reasonable amount of effort to gather data to discuss Student's placement. A fax and email from SSC on July 2 and 3, 2025 is bare minimum effort<sup>22</sup>. (FOF 71, 72). Had the IEP team convened an IEP meeting, considered home-based instruction as a possible placement, but ultimately deciding that it was inappropriate, Home School would have fulfilled its duty in considering the continuum of educational placement. Failing to convene an IEP meeting to discuss possibly providing home-based instruction to Student, DOE violated the IDEA by failing to consider home-based instruction as

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<sup>22</sup> After waiting [REDACTED] for a completed HHI form from Private Psychiatrist and never receiving it, Home School determined during Student's triennial reevaluation on August 27, 2025 that a reevaluation was not necessary. (FOF 79).

an educational placement, which resulted in a loss of educational opportunity for Student.

**9. Whether the DOE violated the IDEA by failing to treat Student's [REDACTED] absenteeism as potentially disability-related and failing to revise the IEP, services, or placement accordingly.**

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The DOE violated the IDEA by failing to treat Student's [REDACTED] absenteeism as potentially disability-related and failing to revise Student's IEP, services, or placement accordingly. "Truancy is a behavior that impedes a student's learning." Alamogordo Public Schools, New Mexico SEA, 2425-61, July 3, 2025, page 4 (125 LRP 23884). When a student's behavior impedes the student's learning, the IEP team must consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior. 34 C.F.R. § 300.324(a)(2)(i). Prior to the annual review of Student's IEP on May 19, 2025, Student [REDACTED] [REDACTED] of school each week beginning on [REDACTED] to address [REDACTED] (FOF 8). [REDACTED] [REDACTED] (FOF 17). By [REDACTED], Student stopped going to school. (FOF 17).

During the 5/19/2025 IEP meeting, the IEP team discussed Student's [REDACTED] absenteeism and, according to a Prior Written Notice dated May 23, 2025, "Parent submit that [Student's] [REDACTED] [REDACTED] (FOF 42). The 5/23/2025 PWN noted that "a medical diagnosis and/or medical rationale for [REDACTED] [was] unavailable." (FOF 42). While Home School waited for updated medical information, the 5/19/2025 IEP team agreed to allow Student to arrive at school by [REDACTED] to address Student's [REDACTED] [REDACTED] (FOF 38, 42).

The IEP team should have considered conducting assessments or taken steps to gather

data about Student's [REDACTED] absenteeism<sup>23</sup>. The IEP team had sufficient information that Student's IEP may not be addressing Student's educational needs when Home School received Private Psychiatrist's 5/27/2025 letter stating that the accommodation provided to Student was insufficient and that Student continued to experience [REDACTED] [REDACTED] (FOF 45). An IEP meeting should have been convened to address Private Psychiatrist's 5/27/2025 recommendation that educational services be provided at home and to discuss what appropriate supports or strategies could be used or whether a change in placement may be appropriate. An IEP meeting was never held, Student's IEP was never discussed or revised, and Student was left with an IEP that was neither tailored to Student's unique needs, nor reasonably calculated to enable progress appropriate to Student's circumstances. Therefore, DOE violated IDEA's substantive requirements under 34 C.F.R. § 300.324(a)(2)(i) and 34 C.F.R. § 300.324(b)(ii), resulting in a denial of FAPE.

In addition, DOE's reliance on Hawaii's compulsory education law is misplaced. DOE Closing Brief, pp. 36-37. Hawaii's compulsory education law places a duty on a "parent, guardian, or other person having the responsibility for, or care of, a child whose attendance at school is obligatory [to] send the child to either a public or private school." H.R.S. §302A-1132(a). DOE's duties and responsibilities are governed by the IDEA which requires the DOE to provide children with disabilities a FAPE up until the day before they turn 22 years old. 34 C.F.R. § 300.101(a). DOE is not required to "compel the Student to attend school"<sup>24</sup>; however, DOE is required to make an education accessible to Student through a tailored IEP. Getting

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<sup>23</sup> DOE Psychologist, who was/is not part of Student's IEP team, was called as a DOE expert in the field of psychology and testified that being absent from school for [REDACTED] is data. DOE Psychologist, Tr. Vol. II, 190:20-21, 222:9-10, 229:11-13.

<sup>24</sup> DOE Closing Brief, p. 37.

Student to school is a collaborative process between the school and Parents. A recent case out of New Mexico provides sound guidance for the case at bar. In July of 2025, the New Mexico State Educational Agency determined that the district denied a student a FAPE because the “District had an obligation to review and revise Student’s IEP to address absenteeism. Although attendance meetings were held with administration, no IEP interventions were implemented to support Student’s attendance during the 2024-2025 school year. Crucially, during the February 2025 IEP meeting—when a new annual IEP was developed—District failed to address Student’s absenteeism.” Alamogordo Public Schools, New Mexico SEA, 2425-61, July 3, 2025, page 5 (125 LRP 23884). Similarly, Hawaii DOE failed to adequately address Student’s absenteeism after the 5/19/2025 IEP meeting. By failing to conduct an appropriate reevaluation and convene an IEP meeting, Home School did not--could not--review and revise Student’s IEP, services, or placement to address Student’s anticipated needs or other matters<sup>25</sup>. 34 C.F.R. § 300.324(b)(1)(ii)(D), (E).

Based on the foregoing, Petitioners met their burden of proof with respect to this issue.

**10. Whether the DOE violated the IDEA by failing to develop or provide necessary behavioral, emotional, or health-related supports required for Student to access instruction.**

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Petitioners fail to meet their burden of proof in showing that the DOE violated the IDEA by failing to develop or provide necessary [REDACTED] supports to address [REDACTED] Pet. Closing Brief, p. 23.

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<sup>25</sup> The possible supports, strategies or services that the IEP team could have considered in Issue 9 are distinguishable from the [REDACTED] supports in Issue 10. The possible supports, strategies or services contemplated in Issue 9 address what can be done at the school level to assist with reducing Student’s absences, while the [REDACTED] supports in Issue 10 address the underlying problems at home that are causing Student to be absent.

The behavioral and [REDACTED] barriers are only seen at home. There is no evidence to show that when Student is in school, Student has behavioral or [REDACTED] issues or concerns.

In March of 2023 when Parents decided that Student would stay home on [REDACTED] [REDACTED], Assistant Principal informed Parents that Home School did not see these symptoms at school. (FOF 8, 10). During the 5/19/2025 IEP meeting, Parents informed the rest of the IEP team that Student's absences were due to Student [REDACTED]

[REDACTED] To address this, Home School agreed to allow Student to come to school at [REDACTED] (FOF 38, 42). The 7/01/2025 meeting was convened because Parents wanted accommodations to address the [REDACTED]

[REDACTED] (FOF 44, 45). During the 7/01/2025 meeting, SSC informed Parent-1 that Student performed well while in school, communicated well [REDACTED], and was engaged when receiving occupational therapy and physical therapy services at school. (FOF 61).

The concerns that Parents described while Student was at home were not seen by school personnel while Student was in school. Based on the information that was available to Home School during the development of the 5/19/2025 IEP and the 7/01/2025 meeting, Home School did not have to develop or provide [REDACTED] supports to address

Student's [REDACTED] in the home setting<sup>26</sup> <sup>27</sup>. DOE “as a matter of law...is not responsible for ensuring that...[Student] translates behavior skills learned in the classroom to the home or community settings.” San Rafael Elementary School Dist. v. California Special Education, 482 F.Supp.2d 1152, 1160 (N.D.Cal. March 28, 2007). DOE is “not required to ensure that a student takes behavioral skills learned at school into the home. The District is only required to ensure that a student’s IEP is ‘reasonably calculated to provide educational benefits.’” San Rafael Elementary School Dist., 482 F.Supp.2d at 1164. Petitioners have not cited to any legal authority requiring DOE to address all of the [REDACTED] [REDACTED] problems that a student may have outside of the academic setting. Therefore, the undersigned finds that Petitioners have not met their burden in showing that DOE denied Student a FAPE when the 5/19/2025 IEP does not address Student’s [REDACTED] needs outside of the school setting or when the IEP team did not develop or provide [REDACTED] [REDACTED] supports to Student at home to access educational instruction.

**11. Whether the DOE violated the IDEA by conditioning revisions to the IEP, or consideration of home-based instruction, on submission of the DOE’s HHI form despite possessing adequate medical documentation to act.**

Petitioners fail to meet their burden of proof in showing that DOE violated the IDEA by

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<sup>26</sup> Petitioners’ use of the phrase “[REDACTED]” is vague. Pet. Closing Brief, p. 23. [REDACTED]

[REDACTED] this opinion was not available to Home School during the 5/19/2025 IEP meeting and 7/01/2025 meeting. Private Psychiatrist, Tr. Vol. II, 173:1-25.

<sup>27</sup> “[A]n IEP must be evaluated in light of the ‘snapshot’ rule, ‘which instructs us to judge an IEP not in hindsight, but instead based on the information that was reasonably available to the parties at the time of the IEP.’” Dept. of Educ., State of Haw. v. Leo W., 226 F.Supp.3d 1081, 1099, 344 Ed. Law Rep. 246 (D. Haw. Dec. 29, 2016) (citing Baquerizo v. Garden Grove Unified Sch. Dist., 826 F.3d 1179, 1187 (9th Cir.2016)).

conditioning revisions to Student's IEP on the submission of an HHI form after receiving Private Psychiatrist's 5/27/2025 letter. The record does not support, and Petitioners do not state where in the record, that Home School directly or indirectly informed Parents that an HHI form must be submitted before Student's IEP can be revised. Either Parents or Home School can request an IEP meeting to revise Student's IEP. Parents requested a "Section 504 team meeting" to discuss "home-based educational services" or "interim home-based instruction" pursuant to Section 504 of the Rehabilitation Act. (FOF 44). As a result, Parents and Home School mutually agreed to meet on July 1, 2025. (FOF 58). If Parents had wanted an IEP meeting, Parents could have requested an IEP meeting at any time after Home School received Private Psychiatrist's 5/27/2025 letter, but they did not. Home School did not request an IEP meeting because they wanted more data before discussing changing Student's placement. A tutor at the home would be able to gather such data, but consent through a signed HHI form was needed, which Parents ultimately did not give. (FOF 61). This is not conditioning revisions to an IEP on the submission of an HHI form; it was a mechanism to gather data that, unbeknownst to Home School, Parents were not allowing.

Petitioners also fail to meet their burden of proof in showing that the DOE violated the IDEA by conditioning the consideration of home-based instruction on Parents submitting an HHI form, despite possessing Private Psychiatrist's 5/27/2025 letter. Home School's request that Parents submit a completed HHI form was so that Home School could provide temporary HHI services to Student in Student's home. (FOF 55, 61, 62, 65, 74). While Private Psychiatrist's 5/27/2025 letter recommends that Student not attend school in-person, the 5/27/2025 letter did not address whether Student has a communicable disease that poses a risk to the homebound tutor; the number of weeks Student would be unable to attend school in-person; and when the

expected return to school date may be. (FOF 52). Furthermore, Parents’ portion of the HHI form seeks consent from Parents for the school to release and discuss Student’s health information with Student’s healthcare provider(s) and the Department of Health Public Health Nurse<sup>28</sup>. (FOF 51). It is reasonable and within the DOE’s authority to control the administrative process by requesting relevant information to determine the appropriateness of an HHI request; however, DOE’s authority to control the administrative process must not adversely affect students. In this case, in the process of controlling the administrative process, Home School adversely affected Student because Home School failed to convene an IEP meeting in a reasonable time when the HHI form was not returned. See Issue 6. Therefore, conditioning the consideration of HHI services on submission of an HHI form alone is not a violation of the IDEA that denied Student a FAPE.

Petitioners, in their closing brief, argues that “home-based instruction” refers to homebound placement. Pet. Closing Brief, p. 24. DOE did not condition consideration of homebound placement on Parents submitting an HHI form. During the 7/01/2025 meeting to discuss Parents’ request for Section 504 accommodations—which Home School was offering in the form of HHI services--Home School informed Parent-1 and Mr. Peck that the tutor who would be providing HHI services in Student’s home could gather data which can be used to discuss homebound placement because the information available to Home School at that time indicated that Student was capable of doing well in school. (FOF 61). During the 7/01/2025 meeting, neither Parent-1 nor Mr. Peck rejected Home School’s plan of gathering more data before discussing homebound placement. Also, Petitioners did not inform Home School on July

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<sup>28</sup> The “Consent for Release of Information” form signed by Parent-1 on May 20, 2025, only allows the DOE to communicate and share information with Private Psychiatrist. (FOF 41).

1, 2025 that they were rejecting HHI services, and in fact, made it appear like they were willing to try it. (FOF 66). Up until the due process hearing, there is no evidence to show that Parents rejected HHI services<sup>29</sup>. Home School's explanation of the HHI process and the need for data to discuss a change of placement to homebound is not conditioning homebound on submission of an HHI form.

Based on the foregoing, Petitioners fail to meet their burden of proof with respect to this issue.

## **VI. DECISION**

Based upon the above-stated Findings of Fact and Conclusions of Law, the undersigned Hearings Officer concludes that Petitioners have proven a denial of FAPE when DOE failed to convene an IEP meeting within a reasonable time after receiving medical evidence that Student could not attend school in-person (Issue 6); failed to conduct a reevaluation or perform additional assessments required to address Student's disability-related inability to attend school (Issue 7); failed to consider home-based instruction as part of the required continuum of educational placements (Issue 8); and failed to treat Student's [REDACTED] absenteeism as potentially disability-related and failed to revise the IEP, services, or placement accordingly (Issue 9).

For the reasons stated above, IT IS HEREBY ORDERED --

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<sup>29</sup> Parent-1 declining HHI services after the due process hearing concluded is not evidence. Pet. Closing Brief, pp. 8-9, 23, 24. Whether or not Parents wanted HHI services and communicated this to Home School are important aspects of this case. During cross-examination of these important facts, Parent-1 repeatedly responded with "I do not recall." Parent-1, Tr. Vol. I, 50:12-25, 52:24-53:11. Parent-1 also gave conflicting testimony when questioned about whether Parent-1 submitted an HHI form. During direct examination, Parent-1 stated that Parent-1 never submitted an HHI form, but during cross-examination, Parent-1 testified "I do not recall" to the same question. Parent-1, Tr. Vol. I, 21:23-25, 53:10-11. This draws into question Parent-1's credibility.

1. The IEP team shall conduct a reevaluation of Student, which shall consist of the following assessments: speech/language, occupational therapy, physical therapy, [REDACTED], [REDACTED], adaptive behavior, cognitive, behavioral/health, and [REDACTED] [REDACTED] ability to attend school. The IEP team shall, within ten (10) school days of this Order, decide if any additional tests or assessments are necessary to determine Student's current needs and revise Student's IEP. Any assessments are to be scheduled and completed within forty-five (45) calendar days of this Order.
2. Parents may decline any of the assessments listed in paragraph 1; however, Parents' must decline in writing.
3. Parents shall sign all necessary consents and/or paperwork needed for any evaluations and to obtain any services.
4. Any delay in meeting any of the deadlines in this Order or the execution of necessary paperwork because of an act or acts of Petitioners and/or their representatives and/or their private providers, will extend the deadlines set herein by the number of days attributable to Petitioners and/or their representatives and/or their private providers. Respondents shall document in writing any delays caused by Petitioners and/or their representatives and/or their private providers.
5. An IEP revision team meeting shall be held within ten (10) school days of the completion of all aforementioned assessments, unless declined in writing by Parents, to revise Student's IEP.

6. Compensatory education in the amount of one hundred forty-eight (148) hours (37 business days x 4 hours = 148 hours)<sup>30</sup>. The compensatory education hours shall be kept in a “bank” for Student’s use up until, and including, the day before Student’s 22nd birthday. The compensatory education hours shall expire on Student’s 22nd birthday. In the event that Student’s 22nd birthday falls on a weekend or holiday, the compensatory education hours shall expire on the last business day before Student’s 22nd birthday.
7. All other forms of relief are DENIED.

### **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 thirty (30) days from the date of the decision 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).

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<sup>30</sup> Parents requested home-based educational services on 6/06/2025. (FOF 44). On 7/01/2025, Home School offered HHI services as temporary home-based educational services (1 hour per week for each core subjects--language arts, math, science and social studies), which would have begun once Home School received a completed HHI form. Parents did not reject HHI services or submit a completed HHI form. (FOF 66, 74). The due process hearing took place on 2/03/2026 and 2/04/2026. Sometime after the due process hearing, one of Student’s Parents informed Home School that Parents rejected HHI services. Pet. Closing Brief, pp. 9-10. On 3/11/2026, Petitioners submitted their closing brief wherein Petitioners requested four hundred (400) hours of educational tutoring services but “do not claim the full IEP service complement.” Pet. Closing Brief, p. 28. Therefore, Petitioners’ request for compensatory education is denied from 6/06/2025 to 3/10/2026 because Parents essentially declined the home-based educational services offered by DOE when they did not submit a completed HHI form and then affirmatively declined HHI services after the due process hearing. The compensatory education will be an hour of instruction in each four (4) core subjects each weekday from 3/11/2026 to 4/30/2026, the date of this decision. Spring break and holidays falling within 3/11/2026 to 4/30/2026 do not affect the number of weekdays in calculating compensatory education hours.

DATED: Honolulu, Hawaii, April 30, 2026.

/s/ Charlene S.P.T. Murata  
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