

SOAH Docket No. 701-25-05502.IDEA
TEA Docket No. 096-SE-1124

Before the State Office of Administrative Hearings

**Student, by next friend Parent,
Petitioner**

v.

**Hutto Independent School District,
Respondent**

FINAL DECISION

I. STATEMENT OF THE CASE

Student (Student), by next friend Parent (Parent and, collectively, Petitioner), brings this action against Hutto Independent School District (Respondent or the District) under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§ 1400-1482, and its implementing state and federal regulations. The main issues in this case are whether the District failed to appropriately evaluate Student in all areas of suspected disability, failed to provide

specialized transportation to Student, and failed to provide Student with a free appropriate public education (FAPE).

The Administrative Law Judge (Judge) concludes the District's evaluations were appropriate, the District provided specialized transportation, and it provided Student with a FAPE and a program reasonably calculated to enable Student to make appropriate progress in light of student's unique circumstances.

II. DUE PROCESS HEARING

The due process hearing was conducted on April 30, 2025, via the Zoom videoconferencing platform. Student was represented throughout this litigation by Parent, Parent, in her *pro se* capacity. The District was represented throughout this litigation by its legal counsel, Jamie Turner and Kaylyn Kirkpatrick with Walsh Gallegos Kyle Robinson & Roalson, P.C. In addition, ***, Director of Special Education, attended the hearing as the party representative for the District.

The parties offered joint and separately disclosed exhibits. The parties jointly offered 45 exhibits, and all were admitted. Petitioner offered 37 exhibits, and all or portions of six of those exhibits were admitted over objections. Petitioner offered the testimony of Parent, the *** School principal, the *** School assistant principal, a District admission, review, and dismissal (ARD) committee manager, and a District resource inclusion teacher not assigned to Student.

Respondent offered 20 exhibits, and all or portions of four those exhibits were admitted over objections. Respondent offered the testimony of ***. The hearing was recorded and transcribed by a certified court reporter. Both parties timely filed written closing briefs. The Decision in this case is due June 16, 2024.

III. ISSUES

A. PETITIONER’S ISSUES

Petitioner identified the relevant timeframe as the 2023–2024 and 2024–2025 school years and raised the following issues for decision in this case:

FAPE:

1. Whether the District failed to provide Student with a FAPE for the relevant time period.
2. Whether the District failed to develop an appropriate individualized education program (IEP) and behavior intervention plan (BIP) for Student.
3. Whether the District failed to provide specialized transportation as a related service.
4. Whether the District failed to provide a shortened school day for Student to accommodate student’s needs.
5. Whether the District failed to properly implement Student’s IEP.

Evaluation

Whether the District failed to timely and appropriately evaluate Student for special education and related services in all areas of suspected disability.

Procedural

Whether the District significantly impeded Parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to Student.

B. RESPONDENT'S LEGAL POSITION AND ADDITIONAL ISSUES

Respondent generally and specifically denies Petitioner's factual allegations and legal claims and denies responsibility for providing any of Petitioner's requested relief.

IV. PETITIONER'S REQUESTED RELIEF

Petitioner requested the following items of relief:

1. Order the District to provide transportation for Student to and from school.
2. Order the District to provide Student with a shortened school day to meet student's medical and educational needs.
3. Order the District to develop an appropriate IEP that includes a *** log and appropriately addresses student's *** disorders.
4. Order the District to provide an independent educational evaluation (IEE) in the form of a functional behavior assessment (FBA) for Student.
5. Order the District to provide compensatory services to address the loss of instructional time caused by the District's failure to implement appropriate accommodations in the following areas: private therapy, applied behavior analysis (ABA) therapy, speech therapy, occupational therapy, and physical therapy.
6. Order the District to provide Student with private school at public expense.

V. FINDINGS OF FACT

Background information

1. Student enrolled in the District in October 2017 for ***. Based on an October ***, 2022, evaluation, Student qualified for special education services as a student with an intellectual disability, ***, speech impairment in the areas of receptive and expressive language, and other health impairment (OHI) in the areas of attention deficit hyperactivity disorder (ADHD) and ***. Student is *** due to *** impairment.¹
2. The District developed a BIP in October 2022 which targeted the behaviors of wandering/elopement, ***, and ***.²
3. On February ***, 2023, by an IEP amendment, Student transferred from the *** class at *** School to the *** class at *** School because Student's home campus changed and did not have a *** class.³
4. The *** class is a *** special education class is for students with significant needs in the area of communication, as well as deficits in *** functioning and adaptive behavior. It is a language-rich setting to facilitate learning of communication skills with alternative ways for students to communicate.⁴
5. The IEP amendment included transportation services for Student for student's safety due to student's *** issues and *** deficits. The services included

¹ Joint Exhibit (JE) 1 at 1; JE 15 at 2; JE 16 at 4.

² JE 21 at 8-10.

³ JE 2 at 1; Transcript (Tr.) at 130.

⁴ Tr. at 132-33.

a group monitor. Student's start time for school was 7:30 a.m., the regular school schedule. Parent agreed to the IEP amendment.⁵

6. Student received a private neuropsychological evaluation from Dell Children's on March ***, 2023. The purpose of the evaluation was to assess student's neurocognitive and emotional/behavioral functioning in the context of student's medical background.⁶
7. The evaluators confirmed Student's prior diagnoses of ADHD – combined presentation and autism spectrum disorder. Additionally, the evaluators determined Student met the criteria for intellectual disability in the *** range and student's overall cognitive abilities were generally equivalent to ***.⁷
8. The evaluators recommended general supports of ABA services and speech therapy. For educational planning the evaluators recommended one-on-one support, an FBA, a BIP, teaching one concept at a time with frequent repetition, keep direct instruction brief, multi-sensory instruction, preferential seating near the teacher, reduction of distractions, ignore minor inappropriate behavior, and allow for movement breaks.⁸
9. Student's ARD committee met on May ***, 2023, for a revision to the annual ARD. The purpose of the meeting was to discuss the private evaluation, late arrival to school, and extended school year services. The committee proposed an evaluation for autism and ADHD. Parent signed consent for the evaluations on May ***, 2023.⁹
10. The ARD committee discussed Student's *** and Parent indicated they had subsided. Parent requested Student be allowed to arrive at school at *** a.m. to allow for additional ***. The District committee members

⁵ JE 2 at 2-4.

⁶ JE 3 at 1.

⁷ JE 3 at 4.

⁸ JE 3 at 5-6.

⁹ JE 8; JE 10.

informed Parent they needed additional documentation from a doctor to show medical necessity for the late arrival to school for next year. The District committee members proposed extended school year services to continue supporting Student's communication and behavior to reduce possible regression, but Parent declined. The meeting ended in agreement.¹⁰

11. Student's certified pediatric nurse practitioner (CPNP) provided an OHI disability report to the District on May ***, 2023, which indicated Student's autism and ADHD inhibited student's ability to maintain attention and delayed student's learning compared to student's peers and provided Student's medication list.¹¹
12. On July ***, 2023, Student's CPNP sent a letter to the District that stated student needed to be allowed to start student's school day at *** a.m. due to student's medical and behavioral needs.¹²

2023-2024 School Year

13. On August ***, 2023, Student's ARD committee met for a revision meeting. The ARD committee determined Student continued to qualify for transportation services and agreed for Student to start student's school day at *** a.m., which decreased student's instructional minutes from the full school week of 2225 per week to 1925 per week.¹³
14. Student's IEP included several accommodations such as check for understanding, processing time for response, specialized curriculum, ***, monitoring, prompting and cueing, redirection, classroom visual schedule, follow BIP, frequent breaks, frequent eye contact/proximity control, in-class timeout, log restroom usage daily to share with Parent, positive reinforcement, rest break, supervision during transition activities, and *** communication device.¹⁴

¹⁰ JE 10 at 2, 4.

¹¹ JE 11.

¹² JE 12.

¹³ JE 14 at 1, 3.

¹⁴ JE 14 at 5.

15. Student's related services included adaptive physical education, speech therapy, *** consult, assistive technology, and ***. *** services are for *** students to help them navigate their educational environment safely and effectively. The meeting ended in agreement.¹⁵
16. On September ***, 2023, Student's ARD committee met for a revision ARD at Parent's request. Parent attended the meeting with an advocate. Parent expressed concern that the restroom log was not being sent home daily, and parent requested 1:1 support for Student. The District determined the current ratio of slightly over 2:1 was appropriate, and it would collect data and adjust as needed. Parent shared that based on testing, Student has *** and Parent described how Student's ***.¹⁶
17. The District speech language pathologist noted she was trialing a *** Communication System with Student because student was *** student's current *** communication device.¹⁷
18. The ARD committee reviewed Student's present levels and student's strengths included sitting at the lunch table with prompts, seeking human contact, *** a book. Student enjoyed dancing, singing, watching videos on student's ipad, and ***. Student benefited from frequent breaks, redirection, frequent reinforcement, and access to an ipad; however, these accommodations only slightly reduced the frequency of *** behaviors.¹⁸
19. Student's weaknesses included struggling with identifying ***, following one-step directions, identifying classroom rules, identifying ***, listener response and attending to non-preferred activities, and ***.¹⁹

¹⁵ JE 14 at 9-10; Tr. at 135.

¹⁶ JE 15; Tr. at 138.

¹⁷ JE 15 at 3; JE 16 at 5.

¹⁸ JE 15 at 2-8; 16 at 2, 6.

¹⁹ JE 16 at 2-8.

20. Student's IEP included 11 goals in the areas of science, activities of daily living, reading, math, social studies, receptive language, adaptive behavior, adapted physical education, ***, and speech therapy. Student received *** instruction in the special education setting, including adapted physical education, library, and socialization. Student required a *** time with fewer students on the playground. Student's related services remained the same.²⁰
21. The ARD committee added the following accommodations to Student's IEP: avoid statements like "don't" and use more positive words, trading reinforcer for action, hand over hand modeling to positively support behaviors, incorporate positive physical reactions (high fives, tens, fist bumps), social stories incorporating pictures of Student using a safe body to reinforce positive behavior choices, prompts for the restroom every *** hours, and *** every *** hours. The meeting ended in agreement.²¹
22. The District received a *** plan from Student's doctor on October 11, 2023. The plan confirmed Student has *** disorder, described how Student's *** appear, listed the steps to take if Student *** while at school, and the medication to provide to Student.²²
23. Student's ARD committee met on October ***, 2023, for an annual review. Parent attended with an advocate. The IEP remained the same as the September 21, 2023, IEP. The ARD committee discussed Student's ***, an incident with Student *** and ***, and Parent's request that a *** log be sent home daily. The District notified Parent that Student refused *** at times, but they would work on reinforcement. Parent raised concerns about a 1:1 aide and the District again shared the current teacher-student ratio was working but agreed to collect data to determine if a 1:1 aide was necessary. Student

²⁰ JE 16 at 12-22, 35-37.

²¹ JE 15 at 5-6.

²² JE 17.

continued to receive a shortened school day with an *** a.m. start time effective until October ***, 2024. The meeting ended in agreement.²³

24. The District conducted a reevaluation on October ***, 2023, to test for autism and ADHD. The evaluators used parental input, teacher input, observation, educational records, and multiple assessments completed by a multidisciplinary team. The evaluators determined Student continued to meet the disability criteria for intellectual disability, speech impairment, ***, and OHI due to ADHD. Student also met the disability criteria for autism.²⁴
25. On student's October ***, 2023, IEP progress report, Student made minimal progress on student's activities of daily living goal, and the progress report indicated none of the skills for student's other goals had been introduced claiming the goals were added at the October ***, 2023, ARD committee meeting; however, the goals are the same as the ones listed in the September ***, 2023 IEP.²⁵
26. On November ***, 2023, the District received a letter from Dell Children's that indicated, due to *** and student's behavioral issues, student required a 1:1 aide to provide redirection for student's ***, to ***, and to encourage student to *** every hour and a half.²⁶
27. Student's ARD committee met on December ***, 2023, for a revision ARD. Parent attended with an advocate. The purpose of the meeting was to discuss the data on Student's need for a 1:1 aide. The ARD committee determined Student required a 1:1 aide due to the volume of *** behavior including ***. Parent again discussed Student's *** log and the need to complete the log to monitor student's ***. The

²³ Petitioner's Exhibit (PE) 37.

²⁴ JE 19 at 1, 39, 40-41.

²⁵ JE 18.

²⁶ PE 1 at 1.

ARD committee agreed to update the BIP and send it home for Parent to review. The meeting ended in agreement.²⁷

28. Student's progress report from December ***, 2023, showed student made progress on the following goals: science, activities of daily living, reading, social studies, receptive language, adaptive behavior, and speech. Student made minimal progress on student's math goal because student's behaviors made it difficult to take data. Student made no progress on student's adapted physical education goal and ***.²⁸
29. Student withdrew from school on February ***, 2024. Student reenrolled in school on May ***, 2024.²⁹
30. On May ***, 2024, the District emailed Parent to inform her they were introducing the *** to Student as student's *** communication device.³⁰
31. Student's ARD committee met on May ***, 2024, for a revision ARD. Parent attended. The purpose of the meeting was to discuss Student returning to school and any parental concerns. Parent expressed concerns regarding Student's ***, ***, and ensuring Student received student's 1:1 support. The District indicated Student would have 1:1 teacher support, with multiple teachers trained to work with student. Student's case manager would send home daily *** information. The IEP from October ***, 2023, remained in effect. The meeting ended in agreement.³¹
32. During the periods of the 2023-2024 school year when Student was enrolled, Student had *** excused absences, *** unexcused absences, and *** tardies.

²⁷ JE 21.

²⁸ JE 22.

²⁹ JE 1.

³⁰ PE 4.

³¹ JE 26.

Student received *** on student's final report card. Additionally, Parent provided *** for Student to school.³²

2024–2025 School Year

33. From August 12, 2024, the first day of school, to September ***, 2024, the District maintained a *** log for Student. Student missed school on September ***, 2024, and never returned after that date.³³
34. The District did not have a *** action plan in place for the 2024–2025 school year because it did not receive updated physician information. The District had a general emergency care plan for students *** at school.³⁴
35. The District conducted an assistive technology evaluation with a report dated September ***, 2024, though the date(s) the evaluation occurred is unclear based on Student's lack of attendance. Student had been using the *** for student's *** communication device. The evaluator tested three new dynamic screen communication devices with Student and recommended the *** device.³⁵
36. The *** School principal emailed Parent on October ***, 2024, regarding Student's *** of absences. The principal asked what the District could do to help Parent bring Student to school daily at *** a.m. and stated that he knew "*** at *** a.m. was a barrier to student's attendance."³⁶ No explanation was provided about the meaning of this statement.
37. On October ***, 2024, Student's ARD committee met for an annual review. Parent did not attend. The committee added autism to Student's areas of

³² JE 23; JE 24; Tr. at 136-37.

³³ Respondent's Exhibits (RE) 6; RE 7; JE 43.

³⁴ JE 41 at 8; Tr. at 140.

³⁵ JE 32.

³⁶ PE 16.

eligibility and reviewed the autism supplement. Student's educational placement related and other services, and BIP remained the same. Student's personal care services supplement indicated student's ***.³⁷

38. Student's IEP goals were updated, and student's instructional time was increased to the full day of 2225 minutes per week. Student's IEP continued to list transportation services scheduled for *** a.m. Monday through Friday. No explanation was provided for the discrepancy between the IEP's instructional minutes and the late start time for transportation services. The ARD committee ended in agreement with the proposed IEP and a plan to send Parent the paperwork for signature.³⁸
39. Student's *** made a home visit at Parent's home on October ***, 2024, to discuss what supports Parent needed for Student to return to school.³⁹
40. Student's physician sent a homebound form to the District on October ***, 2024, which indicated student required homebound services due to increased *** and lack of a 1:1 monitor, and that current bus transportation from the school was unable to accommodate Student's medical needs. The form did not indicate how long Student was expected to be confined to the home.⁴⁰
41. Student's ARD committee met on October ***, 2024, for a review. Parent attended with an advocate. The purpose of the meeting was to discuss Parent's concerns from the October ***, 2024, annual ARD. The District requested to speak with Student's physician for more information. Parent mentioned Student had not attended school due to transportation not being available, the District responded that transportation was available for the full

³⁷ JE 34.

³⁸ JE 34.

³⁹ Tr. at 72.

⁴⁰ PE 10 at 5-6.

school day and “there has been no ARD meeting decisions made to a shortened school day.”⁴¹

42. Parent stated parent had Student’s *** under control with a holistic approach, student did not need a District *** action plan, and parent claimed a *** exemption to the plan. Parent agreed with the *** communication device for Student. The meeting was tabled.⁴²
43. The ARD committee reconvened on November ***, 2024. The District had spoken with Student’s *** since the last meeting. The physician indicated the shortened school day was a behavioral need due to ***, not a medical need. The District offered parent training for Student’s behaviors that interfered with student’s ***, but Parent declined. The District notified Parent no *** exemption to the *** action plan existed and parent agreed to speak with Student’s *** to get a plan. The meeting was again tabled.⁴³
44. Parent requested the installation of video and audio recording equipment in Student’s classroom on November ***, 2024.⁴⁴
45. The ARD committee reconvened on December ***, 2024. The District agreed to shorten Student’s school day with an *** a.m. start time due to Parent’s request and the fact student received the accommodation in the past. The committee planned to reconvene in 6-8 instructional weeks to discuss the data collected on the shortened school day and determine if the accommodation was needed. The committee agreed to update Student’s BIP.⁴⁵

⁴¹ JE 35 at 1, 3.

⁴² JE 35 at 1-4.

⁴³ JE 35.

⁴⁴ PE 29.

⁴⁵ JE 35 at 3; Tr. at 143.

46. After the December ***, 2024, ARD committee meeting, Student continued to not attend school and did not use the provided *** a.m. special transportation. Parent emailed the District on December ***, 2024, requesting to end special transportation services. The District's Director of Special Education sent a letter to Parent on December ***, 2024, confirming Parent's request and expressing the District's willingness to reinstate special transportation upon Parent request.⁴⁶
47. On December ***, 2024, Student's physician responded to an email from the District and indicated she signed the homebound form because Student did not have the needed 1:1 aide, but with a 1:1 aide student's least restrictive environment was in-person school.⁴⁷
48. At Parent's request, Student's ARD committee reconvened on December ***, 2024, and January ***, 2025, to discuss homebound services. Parent attended with an advocate. The committee again discussed Student's *** log and the lack of a *** action plan. The nurse informed Parent that once the District had the plan from the doctor, it could begin to log the ***. Based on the emails with Student's physician, the District determined Student did not qualify for homebound services. The District agreed to install cameras in Student's classroom. The meeting ended in disagreement.⁴⁸
49. The District installed cameras in Student's classroom in January 2025.⁴⁹

⁴⁶ JE 38; Tr. at 142.

⁴⁷ JE 45.

⁴⁸ JE 39; RE 13; Tr. at 154-55.

⁴⁹ Tr. at 183.

VI. DISCUSSION

A. BURDEN OF PROOF

The burden of proof in a due process hearing is on the party challenging the proposed IEP and placement. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62 (2005). There is no distinction between the burden of proof in an administrative hearing and a judicial proceeding. *Richardson Indep. Sch. Dist. v. Michael Z.*, 580 F.3d 286, 292 n.4 (5th Cir. 2009). In this case, the burden is on Petitioner as the party seeking relief to show the District failed to conduct an appropriate evaluation and failed to provide Student with a FAPE during the relevant time period. *Schaffer*, 546 U.S. at 62; *Andrew F., ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017).

B. EVALUATION UNDER THE IDEA

In conducting an evaluation under the IDEA, a school district must (1) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's IEP; (2) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and (3) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental

factors. 34 C.F.R. § 300.304(b). The student must also be assessed in all areas of suspected disability. 34 C.F.R. § 300.304(c)(4).

Neither party offered the October 2022 evaluation into evidence and Petitioner did not present any evidence about that evaluation; therefore, the appropriateness of that evaluation is not addressed. The evidence showed the District's October 2023 reevaluation was conducted by a qualified multidisciplinary team, included a variety of assessment tools and strategies, including teacher and parent input, student observation, standardized and informal assessments, and other technically sound instruments to assess Student's abilities and needs. 34 C.F.R. § 300.304(b). The reevaluation addressed Student's educational strengths, deficits, and needs and continued to support Student's eligibility for special education under the criteria for intellectual disability, speech impairment, visual impairment, OHI due to ADHD, and receipt of adaptive physical education as a related service. The reevaluation concluded student additionally met eligibility criteria as a student with autism. Petitioner presented no evidence regarding the appropriateness, or lack thereof, of the October 2023 reevaluation. Petitioner failed to meet its burden on this claim.

C. DUTY TO PROVIDE A FAPE

The purpose of the IDEA is to ensure that all children with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living. 20 U.S.C. § 1400(d). The district has a duty

to provide a FAPE to all children with disabilities ages 3 through 21 in its jurisdiction. 34 C.F.R. §§ 300.101(a), 300.201; Tex. Educ. Code § 29.001.

The District is responsible for providing Student with specially designed personalized instruction with sufficient support services to meet Student's unique needs in order to receive an educational benefit. The instruction and services must be provided at public expense and comport with Student's IEP. 20 U.S.C. § 1401(9); *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 188-89, 200-01, 203-04 (1982). The basic inquiry is whether the District offered an IEP that "was reasonably calculated to enable a child to make progress appropriate in light of the child's unique circumstances." *Endrew F.*, 580 U.S. at 399.

D. FAPE

The Four Factors Test

The Fifth Circuit has articulated a four factor test to determine whether a Texas school district's program meets IDEA requirements. Those factors are:

1. Whether the program is individualized on the basis of the student's assessment and performance;
2. Whether the program is administered in the least restrictive environment;
3. Whether the services are provided in a coordinated, collaborative manner by the key stakeholders; and
4. Whether positive academic and non-academic benefits are demonstrated.

Cypress-Fairbanks Indep. Sch. Dist. v. Michael F. by Barry F., 118 F.3d 245, 253 (5th

Cir. 1997); *E.R. ex rel. E.R. v. Spring Branch Indep. Sch. Dist.*, 909 F.3d 754, 765 (5th Cir. 2018).

These four factors need not be accorded any particular weight nor be applied in any particular way. Instead, they are merely indicators of an appropriate program and intended to guide the fact-intensive inquiry required in evaluating the school district's educational program. *Richardson Indep. Sch. Dist. v. Michael Z.*, 580 F.3d 286, 294 (5th Cir. 2009).

1. Individualized on the Basis of Assessment and Performance

In meeting the obligation to provide a FAPE, the school district must have in effect an IEP at the beginning of each school year. An IEP is more than simply a written statement of annual goals and objectives and how they will be measured. Instead, the IEP must include a description of the related services, supplementary supports and services, the instructional arrangement, program modifications, supports for school personnel, designated staff to provide the services, the duration and frequency of the services, and the location where the services will be provided. 34 C.F.R. §§ 300.22, 300.320, 300.323(a). While the IEP need not be the best possible one nor must it be designed to maximize Student's potential, the District must nevertheless provide Student with a meaningful educational benefit—one that is likely to produce progress, not regression or trivial advancement. *Houston Indep. Sch. Dist. v. V.P. ex rel. Juan P.*, 582 F.3d 576, 583 (5th Cir. 2009).

The District's obligation when developing Student's IEP and BIP is to consider student's strengths, student's parent's concerns for enhancing student's education, results of the most recent evaluation data, and student's academic, developmental, and functional needs. 34 C.F.R. § 300.324(a)(1). For Student, whose behavior impedes student's learning and that of others, the District must also consider positive behavioral interventions and supports and other behavioral strategies when developing student's IEP and BIP. 34 C.F.R. § 300.324(a)(2)(i); *R.P. ex rel. R.P. v. Alamo Heights Indep. Sch. Dist.*, 703 F.3d 801, 813 (5th Cir.2012).

The evidence showed that the District developed an IEP based on assessment and performance. Student's IEP included measurable annual academic and non-academic goals, related services, and accommodations based on student's present levels. The District updated Student's IEP, including student's accommodations and goals, based on student's needs and performance, Parent's input, ARD committee deliberations, and evaluations and assessments. All ARD committee meetings prior to October 2024, ended in agreement. Additionally, Student's BIP was appropriate and included positive interventions and supports to address Student's behaviors and eventually added a 1:1 aide to assist with behaviors. Petitioner failed to present any evidence as to why Student's BIP was not appropriate.

Parent argues Student's IEPs beginning in October 2024 did not include a *** action plan. At the October ***, 2024, ARD committee meeting Parent indicated Student's *** were under control and student did not need a ***

action plan. The District continued to ask for a plan and at the December ***, 2024 ARD committee meeting Parent agreed to provide one, but never did so.

a) Transportation Services

Under the IDEA, it is the responsibility of the ARD committee to determine if a student requires transportation as a related service to assist the student to benefit from special education. The related service of transportation includes transportation to and from school and between schools as well as travel in and around school buildings. It also includes specialized equipment, such as special or adapted buses, lifts, and ramps, if required to provide special transportation. 34 C.F.R. § 300.34(a); (c)(16).

The evidence showed that Student qualified for special transportation services due to student's *** issues and *** deficits. Student continued to qualify for these services until student's withdrawal from the District. Despite student's eligibility for these services, Parent provided transportation for Student during the 2023-2024 school year. It is unclear from the record how Student was transported to school from August ***, 2024, to student's last day in attendance on September ***, 2024. Additionally, it is unclear from the evidence provided why Student stopped attending school or, as Parent alleges, how special transportation prevented student from attending. The credible evidence showed Student needed the services based on student's disabilities, the IEP included the services, and the District provided the services. Petitioner's complaint seems to be with the time of day the services were provided.

Once the District agreed to the shortened school day at the December ***, 2024, ARD committee meeting, it sent the special transportation services to pick up Student, but Student never used the bus. Parent requested the transportation services stop on December ***, 2024. Parent presented no evidence of any failure by the District to provide the special transportation services required by Student's IEP. The evidence showed the District agreed to and provided these services and Parent chose not to use them.

b) Shortened School Day

During the 2023-2024 school year, Student's ARD committee determined student required a shortened school day as recommended by student's physician due to student's medical and behavioral needs. Based on the evidence presented, Student continued to receive the accommodation of a shortened school day until October ***, 2024. During the October ***, 2024, annual ARD committee meeting, Student's instructional minutes were increased to the full school day. While the Director of Special Education testified that generally, the District is cautious to shorten a student's school day because it decreases a student's access to instructional curriculum, services, and their peers. Neither party by witness nor documentary evidence provided a specific explanation as to why Student's minutes were increased to a full school day. The ARD committee meetings beginning on October ***, 2025, continued to discuss the shortened school day.

On October ***, 2024, Parent provided a homebound form from Student's physician that recommended homebound services for Student. Student's ARD committee met five times between October ***, 2024, and January ***, 2025, to discuss the shortened school day and homebound services. After consulting with Student's physician, Student's ARD committee determined student did not need homebound services because student had a 1:1 aide, but they offered a shortened school day with the plan to collect data and a goal of Student increasing attendance to a full day.

Petitioner failed to establish Student's IEP was not individualized based on performance and assessment and therefore failed to meet its burden on this factor.

2. Least Restrictive Environment

The IDEA requires a student with a disability to be educated with non-disabled peers to the maximum extent appropriate and that special classes, separate schooling and other removal from the regular education environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. This provision is known as the "least restrictive environment requirement." 34 C.F.R. § 300.114(a)(2)(i), (ii). State regulations require a school district's continuum of instructional arrangements be based on students' individual needs and IEPs and include a continuum of educational settings, including mainstream, homebound, hospital class, resource room/services, self-contained – regular campus (mild, moderate, or severe), nonpublic day school, or residential treatment facility. 19

Tex. Admin. Code § 89.1005(e).

To determine whether a school district is educating a student with a disability in the least restrictive environment, consideration must be given to:

1. Whether the student with a disability can be satisfactorily educated in general education settings with the use of supplemental aids and services; and
2. If not, whether the school district mainstreamed the student to the maximum extent appropriate.

Daniel R.R. v. State Bd. of Educ., 874 F.2d 1036, 1048 (5th Cir. 1989)

The determination of whether a student with a disability can be educated in general education settings requires an examination of the nature and severity of the student's disability, the student's needs and abilities, and the school district's response to the student's needs. *Id.* This determination requires an examination of:

1. a school district's efforts to provide the student with supplemental aids and services in the general education setting;
2. a school district's efforts to modify the general education curriculum to meet the student's individual needs;
3. the educational benefit a student is receiving while placed in the general education setting; and
4. the impact the presence of the student with a disability has on the general education setting and the education of the other students in the setting.

Id.

The evidence showed Student was educated in student's least restrictive environment. Student spent the majority of student's day in special education

setting due to student's numerous complex disabilities, including *** disability and speech impairment, and student required substantial support to meet student's academic and communication needs. Additionally, student's behaviors impeded student's learning and the learning of others and were *** that student required a more restrictive setting than the general education setting. Even with the provision of supplementary aides and services a general education setting was not appropriate for Student.

Parent argues Student should be educated in a homebound setting, which is more restrictive than student's current setting; however, Petitioner presented no evidence that student's placement in the special education setting at school no longer met student's needs, nor any data supporting parent's request for homebound services. Student's physician originally indicated student required homebound services due to increased ***; however, after she was made aware that student had a 1:1 aide for the entire day she recommended student attend school in person.

The District educated Student in student's least restrictive environment; therefore, Petitioner did not to meet its burden on this factor.

3. Services Provided in a Coordinated, Collaborative Manner by Key Stakeholders

The IDEA contemplates a collaborative process between the school district and the parents. *E.R. v. Spring Branch Indep. Sch. Dist.*, Civil Action No. 4:16-CV-

0058, 2017 WL 3017282, at *27 (S.D. Tex. June 15, 2017), *aff'd*, 909 F.3d 754 (5th Cir. 2018). The IDEA does not require a school district, in collaborating with a student's parents, to accede to a parent's demands. *Blackmon ex rel. Blackmon v. Springfield R-XII Sch. Dist.*, 198 F.3d 648, 658 (8th Cir. 1999). The right to meaningful input does not mean a student's parents have the right to dictate an outcome, because parents do not possess "veto power" over a school district's decisions. *White ex rel. White v. Ascension Parish Sch. Bd.*, 343 F.3d 373, 380 (5th Cir. 2003). Absent bad faith exclusion of a student's parents or refusal to listen to them, a school district must be deemed to have met the IDEA's requirements regarding collaborating with a student's parents. *Id.*

The evidence showed services were provided in a coordinated, collaborative manner by key stakeholders. From May 2023 to January 2025, Student's ARD committee met 12 times, often at Parent's request. Parent attended all but one ARD committee and attended several with an advocate. All ARD committee meetings prior to the October ***, 2024, meeting ended in agreement, and the documentation from this meeting suggests the District continued to discuss whether Student require required an *** a.m. start time. The ARD committee used parental input and doctor's recommendations to update Student's IEP accommodations, including providing student a 1:1 aide. District staff reached out to Parent multiple times to address student's attendance issues and discussed it at ARD committee meetings. The sheer volume of ARD committee meetings the District convened in an effort to reach agreement with Parent regarding Student's program shows the District made significant efforts to collaborate with Parent and address parent's concerns.

Parent's disagreement with Student not receiving homebound services did not show the District acted in bad faith. The ARD committee is charged with determining whether a homebound placement is the most appropriate placement for the student. 19 Tex. Admin. Code § 89.1005(e)(2)(A). Student's physician rescinded her homebound services recommendation after learning Student received a 1:1 aide, but even if Student's physician had not rescinded the recommendation, documentation by a physician does not guarantee the placement of a student in this instructional arrangement or setting, as the student's ARD committee must determine whether the placement is necessary for the provision of a FAPE. *Id.*

Petitioner failed to establish that the District excluded petitioner in bad faith or refused to listen to petitioner and therefore failed to meet its burden on this factor.

4. Academic and Non-Academic Benefits

Whether a Student received academic and non-academic benefit is one of the most critical factors in any analysis as to whether a Student has received a FAPE. *R.P. ex rel. R.P. v. Alamo Heights Indep. Sch. Dist.*, 703 F.3d 801, 813-14 (5th Cir. 2012).

The evidence showed the IEPs developed by the ARD committee were reasonably calculated to provide Student academic and non-academic benefit and that student made progress on student's IEP goals, which were academic and non-

academic in nature. Student has significant needs based on student's disabilities and no testimony was offered from any of student's teachers or District staff that provided direct instruction to Student, so it is difficult to quantify student's progress apart from what is noted in the limited progress reports available. Student's progress report from December 2023, showed student made progress on student's science, activities of daily living, reading, social studies, receptive language, adaptive behavior, and speech IEP goals.

Additionally, IEPs are intended to be implemented and measured for a given academic year; therefore, academic and non-academic benefits must be weighed considering the entirety of the academic year. *Lamar Consol. Indep. Sch. Dist. v. J.T. by next friend April S.*, 577 F. Supp. 3d 599, 607-08 (S.D. Tex. 2021). In this case, Student withdrew from the District for *** months in the 2023-2024 school year and only attended school for *** in the 2024-2025 school year, and this hinders further analysis of the concerns raised by Petitioner. Petitioner did not meet its burden on this factor.

5. FAPE Conclusion

The District developed a program for Student that was reasonably calculated to enable student to make progress appropriate in light of student's unique circumstances. *Endrew F.*, 580 U.S. at 399, 403. Student's IEP and program were developed using District evaluations and placed Student in student's least restrictive environment. Parent, as well as key stakeholders from the District, provided input to develop Student's program and Student made academic and non-academic progress. A review of the overall educational program shows

Student was provided a FAPE and made progress consistent with student's circumstances with the program as it was developed and implemented. *Michael F.*, 118 F.3d at 253; *Klein Indep. Sch. Dist. v. Per Hovem*, 690 F.3d 390, 391 (5th Cir. 2012).

E. IEP IMPLEMENTATION

When a parent brings a claim based on a school district's failure to implement an IEP, a court must decide whether a FAPE was denied by considering, under the third factor, whether there was a "substantial or significant" failure to implement an IEP; and under the fourth factor, whether "there have been demonstrable academic and non-academic benefits from the IEP. *Spring Branch Indep. Sch. Dist. v. O.W. by next friend Hanna W.*, 961 F.3d 781, 795-96 (5th Cir. 2020) (citing *Houston Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 349 (5th Cir. 2000)).

Neither party presented any evidence regarding the implementation of Student's IEP. Parent argues the District failed to follow the IEP's prompts for Student to *** or check Student's *** every hour. The *** log has dates and times listed with some information about what occurred such as ***; however, this log does not prove Parent's argument of failure to implement. No one testified or provided any clarity on how to interpret the document; consequently, this Judge is unable to determine if the documentation means those were the only times Student's *** was checked or if those were the only times when student's ***.

Parent claims the District did not send home a *** log for Student.

Student's IEP did not include a *** log in the accommodations. Parent raised concerns about Student's *** log in multiple ARD committee meetings; however, whether and to what extent the District agreed to complete a *** log is not clear from the record. At the December 2024 ARD committee meeting, the District agreed to log *** after it received an updated *** action plan from the doctor. The record does not evidence that Parent ever provided an updated *** action plan and Student never returned to school after this meeting.

Petitioner presented no evidence of the District's failure to implement Student's IEP and did not meet its burden of proof on this claim.

F. PROCEDURAL ISSUES

Petitioner alleges the District denied petitioner meaningful participation in the IEP process. Liability for a procedural violation only arises if the procedural deficiency impeded the student's right to a FAPE, significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE, or caused a deprivation of educational benefit. 34 C.F.R. § 300.513(a)(2).

Parent argues the District removed Student's *** communication device without an ARD committee meeting. The credible evidence showed that Student had access to an *** communication device throughout student's time in the District. The specific device may have changed based on evaluation data and what worked best for Student, but the accommodation was never removed from

student's IEP. Petitioner presented no evidence to the contrary.

Parent did not attend the October ***, 2024, annual ARD committee meeting. While it is concerning that the District's October ***, 2024, IEP has conflicting information within the document regarding Student receiving *** minutes of instruction weekly and transportation services continued to be scheduled for the delayed start time of *** a.m., this discrepancy did not deny Parent meaningful participation. Beginning with the ARD committee meeting on October ***, 2024, Parent began requesting homebound services and a shortened school day, and it is reasonable to infer parent had knowledge and understanding of the increased education time for Student provided in the October ***, 2024, IEP. Additionally, the IEP's conflicting information did not prevent the District from implementing Student's IEP or interrupt any of student's services, as Student had stopped attending school in September 2024 and *** even after the District agreed to implement a shortened school day in December 2024. Finally, this discrepancy was not specifically tied to Student's failure to attend school. Therefore, Petitioner failed to meet its burden that the District significantly impeded petitioner's opportunity to participate in the decision-making process.

VII. CONCLUSIONS OF LAW

1. The burden of proof in a due process hearing is on the party challenging the IEP. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62 (2005).
2. The District provided Student a FAPE during the relevant time period, and student's IEP was reasonably calculated to enable student to make

appropriate progress in light of student's unique circumstances. *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 188, 203-04 (1982); *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. 386, 403 (2017).

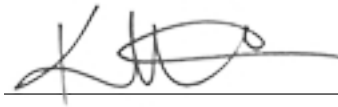
3. The District met its obligation to conduct necessary and timely evaluations of Student. 34 C.F.R. § 300.301-.304.
4. The District's evaluation was appropriate and complied with all requirements under the IDEA. 34 C.F.R. § 300.304.
5. Petitioner did not meet the burden of proving the District failed to implement Student's IEP. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *Houston Indep. Sch. Dist. v. Bobby R.*, 200 F.3d 341, 349 (5th Cir. 2000).
6. Petitioner did not meet the burden of proving that the District made a procedural violation. 34 C.F.R. § 300.513(a)(2)(i-iii).

ORDER

Based upon the foregoing findings of fact and conclusions of law, Petitioner's requests for relief are **DENIED**.

Signed June 16, 2025.

ALJ Signature:



Kasey White

Presiding Administrative Law Judge

NOTICE TO THE PARTIES

The decision of the Judge in this case is a final and appealable order. Any party aggrieved by the findings and decisions made by the Judge may bring a civil action with respect to the issues presented at the due process hearing in any state court of competent jurisdiction or in a district court of the United States. 20 U.S.C. § 1415(i)(2); 34 C.F.R. §§ 300.514(a), 300.516; 19 Tex. Admin. Code § 89.1185(n).