

SOAH Docket No. 701-25-07342.IDEA
TEA Docket No. 110-SE-1224

Before the State Office of Administrative Hearings

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

v.

**Dallas 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 the Dallas 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 case was filed on December 2, 2024, with Notice issued by the Texas Education Agency on December 3, 2024.

The main issues in this case are whether Respondent provided student with a free, appropriate public education (FAPE) and whether it timely evaluated student in all areas of suspected disability. The Administrative Law Judge (Judge) concludes that Respondent has met its obligations under the IDEA in both regards.

II. DUE PROCESS HEARING

The impartial due process hearing was conducted via the Zoom platform May 6-7, 2025. The hearing was recorded and transcribed by a certified court reporter. Petitioner was represented, as petitioner has been throughout this case, by Parent in parent's *pro se* capacity. Respondent was represented by its attorney, Rebecca Bradley of Abernathy, Roeder, Boyd & Hullett, P.C. In addition, the following individuals appeared as party representatives for Respondent at the hearing:

- ***, Assistant General Counsel for the District;
- ***, Executive Director of Instructional Support and Compliance for the District; and
- ***, Executive Director of Special Education Child Find and Direct Services for the District

During the hearing, the Administrative Law Judge (Judge) admitted Joint Exhibits 1-61 and Respondent Exhibits 1-14 without objection. Additionally, the Judge admitted Petitioner's Exhibits A page 8 (though not for the truth of the matter asserted); B pages 31-35 and 107-08; C page 41; and E pages 14, 51, and 64 (though page 64 not for the truth of the matter asserted).

The following individuals testified during the hearing:

1. ***, who was in charge of enrolling students in the early childhood special education program Student attended in the District.
2. ***, a diagnostician for the District who was involved in developing Student's full individual evaluation.
3. ***, a teaching assistant for the District who worked with Student during the 2023-24 school year.
4. ***, a teaching assistant in the District's inclusion program who had limited involvement with Student during the 2023-24 school year.
5. ***, a speech language pathologist for the District who provided direct speech therapy services to Student during the 2023-24 school year.
6. ***, an occupational therapist for the District who provided services to Student during the 2023-24 school year.
7. ***, executive director of instructional support and compliance for the District who attended some of Student's ARD Committee meetings.
8. ***, a homebound teacher for the District who provided *** services to Student after ***, 2024.
9. ***, a speech language pathologist and owner of *** where Student receives private services. She testified as Petitioner's expert in speech services.

10. ***, principal of the *** school Student attended during the 2023-24 school year.
11. Parent provided sworn testimony.
12. ***, a licensed specialist in school psychology for the District who conducted a functional behavioral assessment of Student.

At the conclusion of the hearing, the parties requested an opportunity to submit written closing briefs in lieu of making oral closing arguments on the record. Both parties filed timely and thorough written closing briefs on June 4, 2025. The Decision in this case is due on June 20, 2025.

III. ISSUES

A. PETITIONER'S ISSUES

Petitioner identified the relevant timeframe as December 2, 2022-present and confirmed the following IDEA issues for decision in this case:

1. FAPE: Whether the District failed to provide Student with a FAPE during the relevant timeframe;
2. FAPE: Whether the District failed to develop an appropriate individualized (IEP); and
3. Evaluation: Whether the District failed to timely and appropriately evaluate Student for special education and related services in all areas of suspected disability.

B. RESPONDENT'S LEGAL POSITION AND ADDITIONAL ISSUES

Respondent generally and specifically denied the factual allegations stated in the Complaint. The District contended that it provided Student with a FAPE during the relevant time period, that it can continue to do so, and that Petitioner is not entitled to any of the requested relief. Respondent also asserted the two-year statute of limitations as an affirmative defense. However, because Student only moved into the District within the two-year period prior to the filing of this case, the statute of limitations was not an issue.

IV. REQUESTED RELIEF

A. PETITIONER'S REQUESTED RELIEF

Petitioner confirmed the following items of requested relief:

1. An Order directing the District to develop an appropriate IEP, including a *** assigned to Student and increased direct/pull out speech and occupational services;
2. An Order directing the District to reimburse Parent for private school for Student; and
3. An Order directing the District to place Student at a private school at public expense.

V. FINDINGS OF FACT

Background Information

1. Student is *** years old and attends ***, a *** program at a private school. Student is medically diagnosed with speech impairment, expressive-receptive language disorder, and autism spectrum

disorder. Student is well-liked by teachers and peers; is well-supported and cared for by Parent; and enjoys ***, reading, and playing with family and friends.¹

2. Student was born in *** and lived there until the summer of 2023. During the 2022-23 school year, Student was evaluated for special education in the *** School District in ***. Although student *** school in ***, student did receive Applied Behavioral Analysis therapy and speech therapy outside of the school setting. Student then moved to the *** area during *** of 2023. During the 2023-24 school year, Student attended school at *** in the District.²

Student's Evaluations

3. According to the 2023 evaluation completed while student was living in ***, Student exhibited weaknesses in, among other areas, speech and functional communication compared to same-age peers. Student also showed weaknesses in sensory processing. The evaluation found student should be eligible for special education and related services as a student with a primary eligibility of autism and a secondary eligibility of speech-language impairment. The evaluation did not note that Student had an issue with ***.³
4. When Student arrived in the District, the District held an Admission, Review, and Dismissal (ARD) Committee meeting on October 3, 2023. Based on the February 2023 evaluation, the District placed Student in its *** self-contained classroom. It provided *** speech therapy sessions per week and *** occupational therapy sessions every nine weeks.⁴

¹ Transcript (Tr.) 149, 255, 326; Joint Exhibit (JE) 5, at 2.

² Tr. 306-07; JE 1, at 3; JE 5, at 2.

³ JE 1.

⁴ Tr. 372, JE 12.

5. The District conducted another full and individual evaluation (FIE) in November 2023 at Parent's request. The District accepted the results of the February 2023 *** evaluation in full, but Parent requested additional testing in the areas of cognitive and achievement, speech, and occupational therapy. The evaluators included an educational diagnostician, an occupational therapist, and a speech therapist/speech language pathologist.⁵
6. In preparing its FIE, the District not only reviewed the February 2023 evaluation and accepted its results, but it also reviewed two private evaluations obtained by Parent: an August 2023 speech and language evaluation and a March 2022 occupational therapy evaluation. Evaluators also did multiple in-person observations of Student in student's District classroom setting and spoke with student one-on-one. They interviewed and issued written surveys to Student's teachers and parent. They also relied on multiple formal assessment tools, including the Bracken Basic Concept Scale Fourth Edition, the ***Language Scales Fifth Edition, and the Developmental Profile 4. Other formal assessments were attempted but discontinued due to Student's inattention and failure to engage appropriately in those tests, but discontinuing those tests did not impact the outcome of the evaluation.⁶
7. The District FIE recommended Student's eligibility remain in the categories of autism and speech-language impairment. Student's cognitive level is *** that of same-age peers and student's difficulties with attention and speech can be attributed to student's autism diagnosis. Student has difficulty paying attention to tasks and needs a structured school program with emphasis on communication, socialization, and academic and social skills. The evaluation recommended Student receive *** sessions of direct occupational therapy per nine weeks in addition to exposing student to fine motor activity and *** activity throughout the day. It also recommended individual speech therapy sessions to work on student's receptive and expressive language skills though it did not specify an amount of services. The evaluation recommended accommodations such as frequent

⁵ JE 5, at 1-2.

⁶ Tr. 47, JE 5.

breaks, positive reinforcement, modeling of positive behavior, and a *** schedule for Student to follow. The evaluation, like previous evaluations reviewed, did not note an issue with ***.⁷

ARD Committee and Student's Performance

8. The ARD Committee met on January ***, 2024, to discuss the evaluation and implementing its recommendations. The District continued Student's placement in the *** class. Parent agreed then and still agrees that Student should not be in a general education placement. Based on the evaluation, the District maintained Student's speech therapy services at *** sessions per week. The District increased student's occupational therapy services from *** sessions per nine weeks to *** sessions per nine weeks based on the FIE recommendation. Parent and the District personnel who worked with Student, either in this ARD Committee meeting or the October 2023 ARD committee meeting, did not express concerns about *** behaviors.⁸
9. Using Student's FIE, the ARD Committee developed several academic and behavioral goals. Student's IEP included four goals for speech therapy designed to improve student's communication and verbal awareness skills. The IEP also had three social/behavioral goals relating to staying on task, interacting appropriately with peers, and reducing the number of prompts it took Student to respond to requests. It then had academic goals for each of Student's academic subjects. None of the goals related to reducing *** behaviors because Student had not exhibited any. While Student would occasionally *** within the classroom as part of student's attention difficulties, student never ***.⁹
10. Parent attended the October 2023 and January 2024 ARD Committee meetings. Parent agreed with the evaluation and with Student's placement and services. Parent did not raise issues with Student's potential for

⁷ Tr. 65, JE 5.

⁸ JE13.

⁹ Tr. 63-64, 150-53, 157, 362, JE13.

***. Student made “significant” and “meaningful” progress during the 2023-24 school year toward student’s IEP goals.¹⁰

11. During the 2023-24, in student’s speech services, Student went from needing “***” to request help with an activity to being able to ask for help after modeling at a rate of ***%. In math, Student mastered student’s goal of being able to *** after prompting with ***% accuracy by May 2024. In January 2024, student was only doing so with ***% accuracy. Student also improved in student’s ability to remain on task, being able to sustain attention to a task for *** minutes by the end of the 2023-24 school year after not being able to remain on task at all without consistent prompting in January 2024.¹¹

The * Incident and Its Aftermath**

12. On ***, 2024, Student was on the ***. Student had *** previously and had never attempted to ***. On this day, however, Student was “not appropriately supervised” and student ***. While the ***. Despite adults being present on or near *** at the time, Student *** while the adults were not paying sufficient attention. Student *** for approximately 25 minutes before a *** Student and *** student.¹²

13. When Parent picked Student up on ***, 2024, parent informed the District Student would not be attending school there again during the 2023-24 school year due to the incident. By May 10, 2024, District ***. The principal had individual conferences with the staff members who should have been involved in supervising Student and had those staff members sign letters indicating an acknowledgement of wrongdoing. The District offered 20 hours per week of *** instruction

¹⁰Tr. 64, 152, 155-56, 168-69, 209, JE 12, JE 13,

¹¹JE 22.

¹²Tr. 98, 114-15, 294; JE 34-35.

for the remainder of the school year so that Student would not ***.¹³

14. The District held a series of six ARD Committee meetings after the incident beginning in July 2024 and ending in December 2024 to try to develop a *** plan and other corrective measures so Student could again attend school in the District. The District agreed to conduct a functional behavioral assessment (FBA) focusing largely on Student's elopement behavior, which it completed in October 2024. There was not a prior need for an FBA, because any negative behaviors Student exhibited in the 2023-24 school year, other than the *** ***, were already addressed in student's IEP and BIP. The District conducted one in October 2024 solely due to Parent's request. The ARD Committee also developed *** goal in the IEP at Parent's request. The ARD Committee added an additional *** of direct speech therapy per week, which was responsive to Parent's request for more speech services. And, in response to Parent's concerns about ***, the ARD Committee agreed to provide a one-to-one aide for Student. Student has not attended school under the proposed IEP. Parent does not feel *** sending Student to a District campus after the May 2024 *** incident and prefers the smaller setting in which Student attends school now.¹⁴

15. Student's expert testified that the District has offered many of the services she would recommend. She testified that the District's offer of three *** speech therapy sessions is sufficient, that the District is offering accommodations like *** schedules and frequent breaks that she would recommend, that she would recommend many of the same academic and social IEP goals the District is using, and that the ARD Committee meetings she attended were collaborative with everyone's opinion taken into account even if the parties had difficulty maintaining that same collaboration after the ARD Committee meetings. She also testified that she recommended to Parent that Student attend ***. It is

¹³ Tr. 293, 193-94,

¹⁴ Tr. 77-78, 92-93, 345-46, 359-60, 400, 402-03; JE 13-17, 19.

a school in which she has seen students do well. That is where Student attends currently and student appears to be doing well in that setting.¹⁵

VI. DISCUSSION

A. DUTY TO PROVIDE A FAPE

The purpose of the IDEA is to ensure that all children with disabilities have available to them a FAPE 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 3-21 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 IEP implemented by the school district "was reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. 386, 403 (2017).

¹⁵ Tr. 253-54, 264, 342-43.

B. BURDEN OF PROOF

The burden of proof in a due process hearing is on the party challenging the proposed IEP and placement.¹⁶ *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62 (2005). Therefore, the burden of proof in this case is on Petitioner to show the District failed to provide Student with a FAPE and to offer a program that is reasonably calculated to provide student with the requisite educational benefit. *Id.*; *Endrew F.*, 580 U.S. at 403.

C. FAPE

The Four Factors Test

The Fifth Circuit has articulated a four-factor test to determine whether a 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).¹⁷

¹⁶ There is no distinction between the burden of proof in an administrative hearing or in a judicial proceeding. *Richardson Indep. Sch. Dist. v. Michael Z.*, 580 F.3d 286, 292 n.4 (5th Cir. 2009).

¹⁷ Even after the Supreme Court's 2017 decision in *Endrew F.*, the test to determine whether a school district has provided a FAPE remains the four-factor test outlined by the Fifth Circuit. *E.R. ex rel. E.R. v. Spring Branch Indep. Sch. Dist.*, 909 F.3d 754, 765-66 (5th Cir. 2018) (citing *Endrew F.*, 580 U.S. 386).

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, a 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 meaningful 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 behavior intervention plan (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 the 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 for Student based on assessment and performance. When Student transferred into the District from *** in the 2023-24 school year, the District accepted student's February 2023 evaluation, placed student in the *** classroom, and provided the related services recommended by that evaluation. The District then conducted its own evaluation and, based on that, increased Student's related services and added new accommodations. The District's revisions were effective; Student made consistent and meaningful progress throughout the 2023-24 school year.

Following the May 2024 incident in which Student ***, the District proposed several actions, including conducting an FBA, providing a one-on-one aide, and implementing a behavior goal specifically targeting ***. In their closing brief, Petitioner argues that the District denied Student a FAPE by failing to prioritize student's *** and account for student's ***. However, the evidence does not support this claim. The District had no reason suspect Student might *** prior to the May 2024 incident. The behavior was not noted in student's evaluations and was not raised as a concern by Parent or staff.

In addition to the measures it took under the IDEA to provide Student a FAPE in response to the *** incident, the District also addressed *** concerns by *** and meeting with the personnel responsible for failing

to supervise Student ***. Student has not attended school in the District since the incident, so the District has not had an opportunity to implement its proposed measures. Nevertheless, the District has both provided and attempted to provide Student with individualized educational services based on assessment and performance.

2. Least Restrictive Environment

The IDEA requires a student with a disability to be educated with peers without disabilities 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(c).

To determine whether a school district is educating a student with a disability in the LRE, 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).

In this case, there is no dispute between the parties that the *** represented student's least restrictive environment. Student was *** years old when student attended school in the District and, according to the District and to Parent, it was not appropriate for student to be in a less restrictive setting. Therefore, this prong of the four- factor test will not play a major role in the Judge's determination of whether a FAPE was provided.

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. ex rel. E.R. v. Spring Branch Indep. Sch. Dist.*, 909 F.3d 754, 765 (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 that the District provided its services in a collaborative manner. Parent attended a total of eight ARD Committee meetings in the *** months during which Student was residing in the District prior to filing the Complaint. At Parent's request, the District conducted its own FIE in the fall of 2023 and provided *** services at the end of the 2023-24 school year. The District also proposed adding *** goal, increased Student's speech services, agreed to provide a one-on-one aide, and conducted an FBA based on Parent's input and made its evaluators available to answer any questions Parent had. Student's own expert testified that meetings were collaborative and the District took Parent's opinions into account. In short, the evidence demonstrated that the District collaborated appropriately with key stakeholders.

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 Student received academic and non-academic benefit. Student made "significant" and "meaningful" progress toward student's IEP goals, mastering some and progressing toward mastery on others.

In addition to the academic progress Student has shown, student has had opportunities to socialize with peers. Student has made friends with other students and is well-liked by teachers and fellow students. *See Marc V. v. North East Indep. Sch. Dist.*, 455 F.Supp.2d 577, 596 (W.D. Tex. 2006) (noting making friends is a key non-academic benefit). The District provided Student with both

academic and non-academic benefits. Until the May 2024 *** incident, Student was progressing on student's IEP goals and Parent did not voice complaints about the District's failure to provide student a FAPE or Student's inability to make progress.

5. Conclusion

In conclusion, the District provided Student a FAPE. The District conducted an assessment when Student moved into the District and, based on that evaluation and in appropriate collaboration with Parent, developed an IEP that provided Student an opportunity to make "significant" and "meaningful" progress.

The District failed to supervise Student appropriately while student was *** on ***, 2024, and that resulted in student's ***. The District did not have reason to suspect Student might be prone to *** and had no reason to target *** as a behavior for Student in student's IEP, but the District still failed in its supervision duties on that day. However, that incident does not negate the fact that the District provided Student a FAPE during the 2023-24 school year and can continue to do so. The District worked collaboratively with Parent before and after the *** incident to address concerns and provide Student a FAPE so student could make progress on student's IEP goals. Petitioner showed that the District supervised Student poorly during *** on ***, 2024, but failed to meet their burden of proof to show the District did not provide Student a FAPE.

VII. THE EVALUATION

The other issue raised in the Complaint involved the District's failure to conduct an appropriate and timely evaluation. An FIE must 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, to determine whether the child qualifies for special education and the content of the child's IEP. 34 C.F.R. § 300.304(b)(1). It should use technically sound instruments of evaluation to assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors. 34 C.F.R. § 300.304(b)(3). It must also be sufficiently comprehensive to identify the child's special education and related service needs, whether they are commonly linked to the disability category in which the child has been classified. 34 C.F.R. § 300.304(c)(6). Before conducting a reevaluation, a school district must obtain parental consent. 34 C.F.R. § 300.300(c).

Student had a pre-existing FIE that was less than a year old when student transferred into the District. At Parent's request and with parent's written consent, the District completed a new FIE in 2023 more than two years before it would have been required to do so. 34 C.F.R. § 300.303(b)(2). The FIE in this case included a review of existing evaluation data as required. It also relied on a variety of testing methods, including multiple standard educational testing tools, parent input, teacher input, in- person observations, and an interview with Student. The District assessed Student in all areas related to the suspected disabilities. 34 C.F.R. § 300.304(c)(4). The District came to the same eligibility determination as Student's prior school district

had. It made a number of recommendations for services which the ARD Committee implemented in the IEP.

In short, the District's evaluation was timely in that it was conducted more than two years before it would have been due. It was also appropriate in that it relied on a variety of assessment tools and was conducted thoroughly. It found Student eligible for special education in the same two categories in which the previous evaluation found Student eligible. Petitioner did not present sufficient evidence that an additional eligibility category should have been considered or that the FIE should have made different recommendations than it did.

Petitioner also raised the issue that, if Respondent had conducted an FBA prior to the *** ***, Student may have received a FAPE. However, there was no indication student had *** behavior and all of student's other behavior was already being addressed in student's educational program. Therefore, there was no need for an FBA during the 2023-24 school year. An FBA is only required under the IDEA after a manifestation determination review. 34 C.F.R. § 300.530(f)(1)(i). While it can be a useful tool outside of that context, Petitioner did not demonstrate the need for one during the 2023-24 school year. The District has now completed an FBA, but Student has not returned to the District since its completion. Petitioner did not meet their burden to show the FIE violated the IDEA in some material way or that an FBA needed to be conducted before it was.

VIII. PRIVATE PLACEMENT

Student is currently placed at ***, a private educational placement. Part of the relief requested in this matter involves reimbursement for student's placement there and ongoing placement there at public expense. Petitioner must meet a two-part test in order to secure private placement at school district expense. First, Petitioner must prove that the school district's program was not appropriate. Second, Petitioner must prove that the proposed private placement is appropriate. A private placement may be appropriate even if it does not meet state standards that apply to the public school. *Burlington Sch. Committee v. Dept. of Educ*, 471 U.S. 359, 370 (1985); *Florence Cnty. v. Carter*, 510 U.S. 7 (1993).

In this case, the Judge has determined that the District provided a FAPE during the 2023-24 school year and is proposing the provision of a FAPE if and/or when Student returns to a District campus. While anecdotal evidence from the due process hearing seems to demonstrate that Student is doing well in student's private educational placement, the Judge will not analyze whether the placement is appropriate.¹⁸ The Judge would only do that analysis if he found the District was not providing Student a FAPE. *Id.* Therefore, because the District has and can continue to provide Student a FAPE, reimbursement of private school services is not appropriate in this case.

¹⁸ Petitioner did not present progress reports or testimony from anyone working with Student at ***. However, Parent and Petitioner's expert testified that Student is doing well there and progressing. The Judge will not decline to analyze the appropriateness of *** for Student any further.

IX. 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 conducted a timely and appropriate evaluation of Student. 34 C.F.R. § 300.304
4. Private school tuition reimbursement and/or placement at a private school at public expense for Student is not appropriate, because the District provided Student a FAPE during the 2023-24 school year and can continue to provide Student a FAPE. *Burlington Sch. Committee v. Dept. of Educ*, 471 U.S. 359, 370 (1985); *Florence Cnty. v. Carter*, 510 U.S. 7 (1993).

ORDER

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

Signed June 20, 2025.

ALJ Signature:



Ian Spechler

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).