

STUDENT., B/N/F PARENT.,	§	BEFORE A SPECIAL EDUCATION
Petitioner,	§	
V.	§	HEARING OFFICER
BOERNE ISD,	§	
Respondent.	§	FOR THE STATE OF TEXAS

FINAL DECISION OF THE SPECIAL EDUCATION HEARING OFFICER IN AN EXPEDITED DUE PROCESS PROCEEDING

I.

STATEMENT OF THE CASE: 033-SE-0925-A (Expedited Case)

On September 23, 2025, Student., *b/n/f* Parent., (“Parent” or “Student” and collectively, “Petitioner”) filed a Complaint with the Texas Education Agency (“TEA”) against Boerne Independent School District (“Respondent” or “District” or “Boerne”), requesting an impartial Due Process Hearing, pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (“IDEA”).¹ The case was assigned to the undersigned Special Education Hearing Officer (“SEHO”) Deborah McElvaney.

Petitioner’s concerns in the Expedited Case relate to whether Respondent conducted an appropriate Manifestation Determination Review (“MDR”) to find that the Student’s action was caused by, or had a direct and substantial relationship to, Student’s disability, and/or whether Petitioner’s conduct was the direct result of the District’s failure to implement Student’s Individualized Education Program (“IEP”).

A. PETITIONER’S ISSUES: The relevant timeframe concerns school year 2025-26, which is Student’s first year in the District. Petitioner raised the following issues for the expedited hearing:

1. Whether, during the September^{***}, 2025, MDR, Petitioner’s ARD Committee (“ARDC”) reviewed all relevant information in Petitioner’s file, including the IEP, any teacher observations, and any relevant information provided by the Petitioner’s Parent, in making its MDR recommendations.
2. Whether, during the September^{***}, 2025, MDR, Petitioner’s ARDC improperly found that Petitioner’s violation of the code of conduct, *i.e.*, ^{***}/^{***} with another student, was not a manifestation of Petitioner’s disabilities;

¹ The original complaint contained substantive and procedural issues but only a mention of a complaint related to Student’s disciplinary finding and placement. Petitioner subsequently filed an Amended Complaint to challenge his placement in the Disciplinary Alternative Education Program (“DAEP”) for violation of the Student Code of Conduct for fighting/mutual ^{***}. This resulted in the bifurcation of the case into 033-SE-0925-A and 033-SE-0925-B. The November 5, 2025, Due Process Hearing and this Decision address the disciplinary findings and placement in the Expedited Due Process Hearing: 033-SE-0925-A.

3. Whether, during the September^{***}, 2025, MDR, Petitioner's ARDC improperly found that Petitioner's violation of the code of conduct, *i.e.*, ^{***}/^{***} with another student, was not the direct result of the District's failure to implement the IEP and BIP.

B. Petitioner's Requested Relief: Petitioner requested the following relief:

1. Overturn Student's DAEP placement and order the District to return Student to Student regular educational placement;
2. Expunge Student's DAEP records related to Student alleged violation of the code of conduct, *i.e.*, the ^{***}/^{***} with another;
3. Immediately develop an individualized and specific Individualized Education Program ("IEP") and Behavioral Intervention Plan ("BIP");
4. Immediately review and consider all records from Petitioner's previous District;
5. Provide compensatory academic educational services until Petitioner makes sufficient progress;
6. Train all teachers and staff who work directly with Petitioner in how to implement Student IEP and BIP;
7. Provide on-going monitoring of Petitioner's performance to ensure full implementation of any revised IEP and BIP; monitoring information shall be reported to Petitioner's Parent; and
8. Provide weekly written documentation of all accommodations and modifications implemented under Petitioner's IEP.

II.

PROCEDURAL HISTORY

Petitioner's original September 23, 2025, Complaint contained issues related to substantive and procedural violations of IDEA. Because of the contents of the Complaint, the undersigned carried this case under the non-expedited timelines and on September^{***}, 2025, issued the Initial Scheduling Order in a non-expedited matter, which set out the timelines applicable to a regular-track due process hearing: Resolution Session: October^{***}, 2025; Prehearing Conference ("PHC"): November^{***}, 2025; Disclosures: November^{***}, 2025; Due Process Hearing: November ^{***} 2025; and Decision: December^{***}, 2025.

On October 3, 2025, Petitioner filed an Amended Complaint, which included new issues related to Respondent's alleged disciplinary actions that resulted in a change of placement for Petitioner. As such, these disciplinary claims required the implementation of the expedited due process procedures under 34 C.F.R. §300.532(a)-(c); and 19 TEX. ADMIN. CODE §§89.1151(c) & 89.1191.

On October ^{***}, 2025, the undersigned issued Order No. 2: Amended Scheduling Order of the Special Education Hearing Officer in an Expedited Case, which rescheduled the September^{***}, 2025, Order No. 1: Initial Scheduling Order by carrying all of Petitioner's issues, substantive and procedural, under the expedited timeline

On October 9, 2025, Respondent filed its Motion for Separate Trials. On October 14, 2025, the undersigned issued Order No. 3: Order Bifurcating Case, which separated the expedited from the non-expedited claims into two (2) cases: 033-SE-0925-A (expedited) and 033-SE-0925-B (non-expedited). The expedited timeline for this expedited case was maintained as set out in the October *** 2025, expedited scheduling order.

III. EXPEDITED DUE PROCESS HEARING

The undersigned instructed the Parties to make their Disclosures, including the Joint Disclosures and Witness Lists, by 5:00 p.m., October 29, 2025. Both Parties complied with this Disclosure Deadline.

On November***, 2025, the Parties convened, and completed, the Due Process Hearing. Petitioner was represented by Student Parent,***. Mr. Eric G. Rodriguez and Ms. Ariena Martinez of the law firm Walsh Gallegos Kyle Robinson & Roalson P.C. represented Respondent. Also in attendance throughout the Hearing were Student Petitioner's Parent and *** , Respondent's Director of Special Education.

The Parties introduced their exhibits and called several witnesses. Admitted into evidence were the following: Joint Exhibits 1-11 and 13-14; Petitioner's Exhibits 2-20 (nine were not admitted due to objections from Respondent); Respondent's Exhibits 15-20 (the total number offered by Respondent). Petitioner called seven (7) witnesses; Respondent did not call any witnesses but put on its case through cross-examination. At the conclusion of the Hearing the undersigned informed the Parties that they could file a written Closing Brief by 5:00 p.m., November 14, 2025. Both Parties submitted their briefing timely.

Under the expedited timelines, this Decision is due on, or before, November 19, 2025. This Final Decision is issued timely on November 19, 2025.

IV. FINDINGS OF FACT ²

1. The District is a political subdivision of the State of Texas and a duly incorporated Independent School District responsible for providing FAPE under IDEA and its implementing rules and regulations.
2. Student resides within Respondent's jurisdictional boundaries [T.76.19-25; 77.1-2].
3. Student is a ***-year-old *** who enrolled in the District at the beginning of school year 2025-26 and attends Student home campus, ***[T.76.11-18].

² References to the Due Process Hearing Record are identified as follows: "T.##" refers to the one-volume Court Reporter's Transcription of testimony made on November 5, 2025, and the specific page and line numbers contained therein; "Jt.##" refers to the Joint Exhibits by number and page; "R.##" refers to Respondent's Exhibits by number and page; P## refers to Petitioner's exhibits by number and page.

4. Student qualifies for special education and related services as a student with a Specific Learning Disability (“SLD”), with dyslexia and deficits in the areas of Basic Reading, Reading Fluency, Reading Comprehension, Written Expression, Math Calculation, and Math Problem-Solving [Jt.1.7]. Student also qualifies under the Other Health Impairment (“OHI”) category for attention-deficit/hyperactivity disorder (“ADHD”) [Jt.1.7] [T.190.16-21].

***** ISD:**

5. Prior to enrolling in Boerne, Student attended *** ISD. On March***, 2023, *** conducted a Review of Existing Evaluation Data (“REED”) to ascertain whether Student’s IEP was sufficient or if further testing was warranted to update the IEP [Jt.1] [T.175.17-21].
6. The ARDC reviewed prior standardized assessments, reports from teachers as to academic and behavioral performances. Student’s teachers noted that when Student is on Student medication, Student follows class rules and teachers’ directives, interacts appropriately with peers, accepts responsibility for Student actions, and appears to tolerate frustration. When Student is not on Student medication, Student consistently interrupts class, *** with students, *** [Jt.1.5].
7. The ARDC noted that previously, Student’s physician had not returned an OHI form needed to serve Student for ADHD. Having received the completed OHI form prior to the March 6, 2023, REED, the *** ARDC determined that Student qualified for special education and related services under the additional disabling condition of OHI, due to ADHD, and added it to Student IEP [Jt.1.10]. Student’s physician noted on the OHI form that Student’s ADHD resulted in limited alertness, including heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment; problems with getting easily distracted and being disruptive in class; and decreased attention span requiring a need for prompting [Jt1.4].
8. The March ***, 2023, ARDC confirmed that Student meets the criteria for SLD with dyslexia and OHI for ADHD [Jt.1.10].
9. On February *** , 2025, Student’s *** ARDC convened Student’s annual ARDC meeting and revised Student IEP, which provided for the duration of services between February 11, 2025, and February 10, 2026. The ARDC reached consensus and mutually agreed that [Jt.3.90]:
 - a. Student required goals to make progress in the general education setting in the areas of Reading, Writing, Math, Science, Behavior, and ***;
 - b. Student required accommodations and/or modifications to ensure access to, and enable participation in, the curriculum;
 - c. Student required instruction in the Special Education Applied Specialized Support setting for Math, Reading, and Writing; ³

³ Based upon the severity of a student’s disability, this program allows the student to leave the general education classroom for very intensive and specific instruction by a special education teacher.

- d. Student would have general education co-teach (basic) for Science and ***; ⁴
 - e. Student would have access to *** for behavior and academic needs. ⁵
- 10. The *** ARDC developed a BIP to target two (2) behaviors: disruption of classroom and task completion [Jt.3.]. The ARDC noted that Student's ADHD significantly impacts Student ability to sustain attention and focus on tasks, instructions, or classroom discussions.
 - 11. The *** ARDC noted that Student's impulsiveness can lead to disruptions in the learning environment, including blurting out answers, interrupting others, and acting without considering consequences.
 - 12. The *** ARDC noted that Student's hyperactivity makes it hard for Student to remain seated and focused for extended periods, which affects participation in classroom activities and completion of assignments. It also affects executive functioning skills like planning, problem-solving, and cognitive flexibility, which impedes tasks requiring organization, sequencing, and goal setting, all crucial for academic success.

BOERNE ISD:

- 13. On September *** 2025, Student's Boerne ARDC met to develop Student's IEP for school year 2025-26 [T.190.16-21]. Student's ARDC continued Student's eligibilities as established through Student March ***, 2023, REED and February ***, 2025, IEP [Jt.3.16]. The ARDC drafted goals in the areas of behavior, English Language Arts and Reading, Mathematics, Science, and *** [Jt.3.16-23]. This ARDC developed accommodations and modifications in all of these areas [Jt.3.25-26].
- 14. The ARDC accepted the BIP developed in February 2025 by *** ISD [Jt.3.45-48]. This BIP targeted the following behaviors: Disruption of Classroom, which manifests in Student's commenting in others' conversations, resulting in *** verbal conflicts [T.74.2-25; 196.14-25; 197.1-16]; and Task Completion, which manifests in Student's struggling to stay on task to complete assignments timely [T.196.14-25; 197.1-16].
- 15. These target behaviors contained the operational definition of each behavior, desired replacement behaviors, methods to measure weekly progress, positive strategies/supports/interventions, reinforcers, and a response plan [Jt.3.45-48]. The September ***, 2025, ARDC paperwork indicates that the committee mutually agreed to the decisions reflected in the report [Jt.3.39].

⁴ The co-teach classroom consists of two (2) certified teachers who collaborate in planning, delivery, and monitoring of services to help students make progress in identifying areas of need as outlined in the student's IEP.

⁵ Behavioral and Academic Support Environment ("BASE") offers comprehensive support for students with significant behavioral and academic needs.

DISCIPLINARY INCIDENT:

16. On September ***, 2025, Student was involved in a *** with another *** student while on campus [T.38.17-21]. Both students were *** waiting for the class to end. They exchanged some verbal insults, which resulted in *** teacher (“the Teacher”) intervened. The District investigated the *** and ultimately recommended that Student’s *** violated the Student Code of Conduct under “Mistreatment of Others.” Specifically, the District determined that the *** was a prohibited act of ***/*** on school property [Jt.8.1]. The campus behavior coordinator informed Petitioner that the District recommended Student’s placement in the DAEP for forty-five (45) days [T.171.5-10].

SEPTEMBER 23, 2025. MDR:

17. On September *** 2025, Student’s MDR ARDC met to ascertain whether Student’s proposed placement in the DAEP violated IDEA [Jt.5] [T.171.5-10; 198.10-17]. Student and Student Parent attended the meeting.
18. The MDR ARDC reviewed and discussed Student’s March *** 2023, REED and May ***, 2024, Addendum to the REED; Student’s eligibility of OHI and SLD; Student’s BIP; prior and current IEPs, the investigation information conducted at the time of the ***; and Student’s behavioral history as set out in Student prior IEP [Jt.5.6].
19. The MDR ARDC determined that Student’s conduct was not caused by, or had a direct and substantial relationship to, Student’s disabilities [T.177.5-8] [Jt.5.6]. The ARDC further determined that Student’s conduct was not the direct result of the District’s failure to implement Student’s IEP [T.177.17-25; 178.1-4] [Jt.5.6]. Petitioner and Student Parent declined to sign the paperwork [Jt.5.7].
20. The MDR ARDC confirmed Student’s placement in the DAEP for forty-five (45) days, noting that during Student placement at the DAEP, Student would receive consult services from Student case manager [Jt.5.11]. Following the September ***, 2025, incident, Student has not attended school and declined to attend the DAEP.
21. As of the date of the Due Process Hearing, November 5, 2025, Student was not attending school or attending the DAEP [T.64.22-25; 65.1-25; 66.1-17].

V. DISCUSSION

A. BURDEN OF PROOF:

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). The IDEA creates a presumption favoring the education plan proposed by a school district and places the burden of proof on the student challenging the plan. *Schaffer v. Weast*, 546 U.S. 49; 126 S. Ct. 528, 35-537 (2005); *Tatro v. State of Texas*, 703 F.2d 832 (5th Cir. 1983), *aff’d*, 468 U.S. 883 (1984); *E.R. v. Spring Branch Indep. Sch. Dist.*, 909 F.3d 754, 762-63 (5th Cir. 2018) (*citing Cypress-Fairbanks Indep. Sch. Dist. v. Michael F.* 118

F.3d 245, 252 (5th Cir. 1997); *R.H. v. Plano Indep. Sch. Dist.*, 607 F.3d 1003, 1010-11 (5th Cir. 2010). Accordingly, Student had the burden of proof in this case.

B. THE STUDENT CODE OF CONDUCT VIOLATION:

On September *** 2025, Student was in the *** classroom, a rather large setting. It was the end of class and students were preparing to leave the class as soon as it was over. Student was sitting on the risers with other students and was not close to the Teacher; neither was Student close the *** student involved in the subsequent ***. The two (2) *** began talking to each other but the conversation devolved ***. The other student got up from the riser and made Student way over to Petitioner. At one point Student physically removed Student from the situation. However, the insulting barbs continued ***. As a result ***, the District determined that Student violated the Student Code of Conduct and recommended that Student serve forty-five (45) days at the DAEP. This recommendation was then referred to the MDR ARDC.

C. MANIFESTATION DETERMINATION REVIEW:

The MDR is an important discipline procedure under the IDEA. It is an evaluation of a student's misconduct to determine whether that conduct is a manifestation of the student's disabilities. It must be performed within ten (10) school days of the change in placement that stemmed from an IDEA-eligible student's violation of a code of conduct. 34 C.F.R. §300.530(e).⁶

IDEA provides that when a district decides to change a disabled student's placement because of a violation of a student code of conduct, the student's ARDC must determine whether the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability, or was the direct result of the district's failure to implement the student's IEP. 34 C.F.R. §300.530(e); TEX. EDUC. CODE §37.004(b). If the behavior is determined **not** to be a manifestation of the student's disability, then the student may be disciplined in the same manner and for the same duration as non-disabled student. 34 C.F.R. §300.530(c). If the behavior is determined to be a manifestation of the student's disability, then, with limited exceptions, the ARDC must either modify any existing BIP or conduct an FBA and develop a BIP. 34 C.F.R. §300.530(f).

1. The MDR Committee Reviewed Sufficient Relevant Information in Conducting the MDR.

Petitioner asserts that the September ***, 2025, MDR failed procedurally when the ARDC did not review relevant evidence contained in Student's file. Petitioner failed to prove this procedural violation.

The MDR must involve a review of all of the relevant information in the student's file, including the student's IEPs, teacher observations, and any other relevant information provided by the parents. 34 C.F.R. §300.530(e). However, that list of relevant information is not exhaustive. 17 Fed. Reg. 46,719 (2006).

The MDR ARDC was led by the District's school psychologist. Prior to the meeting she reviewed Student's eligibilities of OHI and SLD; Student's current and prior BIPs and IEPs; the investigation information

⁶ A "change of placement" occurs when the district removes the IDEA-eligible student from his current educational placement for more than ten (10) consecutive school days. 34 C.F.R. §300.536.

conducted at the time of the ***, including statements by student witnesses as well as the Teacher's statement; and Student's behavioral history as set out in Student prior and current IEP [Jt.5.6]. ⁷

This psychologist likewise reviewed Student's evaluations, including the March 2023 REED and its subsequent May 30, 2024, Addendum to the REED [P.18] [T.111:13-18; 119.7-25; 120:1-20]. The Addendum included a Behavior Assessment System for Children, Third Edition ("BASC-3") [P.18.2]. The BASC-3 provides an objective measure of behavior as compared to other children the same age. It is an assessment of various behaviors such as hyperactivity, aggression, conduct problems, anxiety, depression, somatization, attention, withdrawal, age mentality, and adaptive skills [T.129.16-24].

The psychologist summarized all relevant information and presented her summary of these documents to the MDR ARDC [T.131.18-24]. This fulfilled the ARDC's obligation to review relevant information contained in Student's file.

2.. The MDR Committee Correctly Found That Student's Action Was Not Caused By, or Had a Direct and Substantial Relationship to, the Student's Disabilities.

The standard for establishing a manifestation for the purposes of an MDR under IDEA is a high bar, requiring a close correlation between the disability and the conduct. Simply showing a connection to the disability is not sufficient to show that the behavior was directly caused by, or had a substantial relationship to, a student's disability. *Katy Indep. Sch. Dist.*, 122 LRP 20430 (TX SEA Feb. 25, 2022).

Petitioner alleges that Student code of conduct violation was a manifestation of Student OHI disability, ADHD. Petitioner asserts that the conduct violation, *** with another *** student on school property, was the exact target behavior documented in Student BIP.

The *** ARDC developed a BIP to target two (2) behaviors: disruption of classroom and task completion [Jt.3.]. The ARDC noted that Student's ADHD significantly impacts Student ability to sustain attention and focus on tasks, instructions, or classroom discussions, leading to missed information, incomplete assignments, and difficulties in following along with lessons. Student impulsiveness can lead to disruptions in the learning environment, including blurting out answers, interrupting others, and acting without considering consequences. Student's Boerne ARDC adopted these target behaviors and the BIP addressing them.

The May ***, 2024, Addendum to the REED included a Behavior Assessment System for Children, Third Edition ("BASC-3") [P.18.2]. The BASC-3 provides an objective measure of behavior as compared to other children the same age. It is an assessment of various behaviors such as hyperactivity, aggression, conduct problems, anxiety, depression, somatization, attention, withdrawal, age mentality, and adaptive skills [T.129.16-24]. The Student, Student's teachers, and Student's Parent complete forms [P.18.2]. The Parent Rating Scale is a comprehensive measure of the student's adaptive and problem behaviors in the community and home. The Teacher Rating Scale measures adaptive and problem behaviors in the school setting [P.18.2].

⁷ Student's previous behavior data from Northside ISD was reviewed and incorporated into his IEP, which became his Boerne IEP. This provided the MDR ARDC sufficient information related to his disciplinary history.

The BASC-3 showed elevations in Student's behaviors of hyperactivity, ***, and conduct problems; it noted that these behaviors likely were due to Student's ADHD [T.132.1-9]; and that the use of the word "****" referred to verbal ***, not *** [T.132.14-17].

The school psychologist agreed that Student had significant behavioral issues, but she did not agree that the September ***, 2025, *** stemmed from Student ADHD. In the midst of the event, Student showed restraint or the ability to remove Student from *** [T.148.16-25]. Student stated in the MDR ARDC that Student was aware Student was on risers in the classroom and Student did not want to fall. The Committee determined that act of initially walking away showed restraint [T.149.1-10].

None of the disciplinary conduct, prior to Student's enrolling in Boerne or thereafter, evidenced Student's propensity for *** toward others. The "****" reference in Student file referred to "verbal" ***. Student's Boerne teachers had student as a student for approximately four (4) weeks prior to the ***. No Boerne teacher reported behavioral concerns [T.182;7-24].

Petitioner argues that Student's *** was a predictable result of Student ADHD. This is actually a conclusory statement that is not supported by the evidence. While Student's verbal *** is well documented, Student has no history of *** towards others. Student current IEP makes no reference to ***; Student BIP makes no reference to, or provision of, *** as a target behavior.

Student qualifies for special education and related services as a student under the OHI and SLD qualifying disabilities. Petitioner has not alleged that the subject *** was a manifestation of Student SLD. Rather, Petitioner focuses on the OHI classification for ADHD. At the time of the subject disciplinary incident, Student had an appropriate IEP and BIP, *** accommodations, and co-teaching environment.

The bottom line is this: The IDEA's limit on disciplinary consequences for students with disabilities applies "only when the conduct violation has a documented and close connection to the behavior the student has exhibited previously at school stemming from Student disability." *Katy Indep. Sch. Dist.*, 122-SE-0122 (TX SEA Feb. 25, 2022). No such connection obtains here.

3. The MDR Committee Correctly Found That Student's Action Did Not Directly Result From the District's Failure to Implement the Student's IEP/BIP During School Year 2025-26.

The second, separate question in the manifestation analysis is whether the conduct in question directly resulted from the district's failure to implement the student's IEP. 34 C.F.R. § 300.530(e)(1)(ii). Petitioner's argument related to this prong is limited to an assertion that on the day of the ***, the Teacher failed to monitor Student, intervene timely before the verbal *** turned into *** and/or following the incident, the Teacher failed to activate Petitioner's right to go to the *** setting for cooling down.

The Teacher was at Student desk with several students. Student and others were sitting on the risers in the room. The *** students were not sitting together. When the Teacher heard the raised voices and insulting comments, Student observed that the other student moved over to Petitioner, engaged in more insults, ***. The Teacher intervened *** and then notified the campus administration of the *** incident [T.237.8-18].

Student's Teacher was trained in understanding how to handle classroom behaviors [T.207.1-14]. Student likewise understood Student responsibilities in implementing Student's IEP and BIP [T.206:9-15]. The Teacher had observed Petitioner demonstrating some of the behaviors addressed in Student BIP, such as

interjecting in another conversation, which were addressed through intervention as specified in Student's BIP [T.211.5-10].

Where school districts have engaged in action that is contradictory to the strategies in the existing IEP and BIP, Hearing Officers have determined that the student's conduct was the direct result of the District's failure to implement the IEP. See *Ysleta Indep. Sch. Dist.*, 134-SE0122 (TX SEA Mar. 21, 2022). Petitioner failed to prove that the Teacher's actions evidenced a failure to implement Student's IEP or BIP.

VI. CONCLUSIONS OF LAW

1. The District is a local education agency responsible for complying with IDEA. 20 USC §1400 *et. seq.*
2. Student bears the burden of proof on all issues raised under IDEA at the due process level. *Schaffer v. Weast*, 546 U.S. 49, 126 S.Ct. 528, 535-537 (2005). IDEA creates a presumption that a school district's decisions made pursuant to the IDEA are appropriate and that the party challenging the decisions bears the burden of proof at all times. *Id.*
3. The District complied with IDEA's procedural disciplinary requirements when it conducted an MDR to ascertain whether Student's conduct, which resulted in a disciplinary placement, was related to Student's disabilities. 34 C.F.R. §300.530.
4. The District complied with IDEA's procedural disciplinary requirements when it conducted an MDR that included a review of the relevant information contained in Student's file. 34 C.F.R. §300.530(e).
5. Student's conduct, which resulted in a disciplinary referral, was not caused by, or had a direct and substantial relationship to, Student's disability. 34 C.F.R. §300.530(e); TEX. EDU. CODE §37.004(b).
6. Student's conduct, which resulted in a disciplinary referral, was not the direct result of the District's failure to implement the Student's IEP and/or BIP. 34 C.F.R. §300.530(e).
7. The District has the authority to place Student at the DAEP for the Student Code of Conduct violation. 34 C.F.R. §300.530.

**VII.
ORDER**

Based upon the record of this proceeding and the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that the relief requested by Petitioner is DENIED.

SIGNED this the 19th day of November 2025.

DHMcElvaney Law, PLLC

Deborah Heaton McElvaney
Special Education Hearing Officer

NOTICE TO THE PARTIES

The Decision issued by the Hearing Officer is final, except that any party aggrieved by the Findings and Decision made by the Hearing Officer 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. A civil action brought in state or federal court must be initiated not more than 90 days after the date the Hearing Officer issued her written Decision in the Due Process Hearing. 20 U.S.C. §§1415(i)(2) and (3)(A) and 1415(l).

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