

SOAH Docket No. 701-25-22941.IDEA
TEA Docket No. 350-SE-0725

Before the State Office of Administrative Hearings

**Student., by next friends Parents.,
Petitioner**

v.

**Northwest Independent School District,
Respondent**

FINAL DECISION

I. STATEMENT OF THE CASE

Student. (Student), by next friends Parents. (Parents and, collectively, Petitioner), brings this action against the Northwest 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 issue in this case is whether the District failed in its Child Find obligations during the 2023-2024 school year. The Administrative Law

Judge (Judge) concludes that Petitioner did not prove, by a preponderance of the evidence, that the District failed in its Child Find obligations.

II. DUE PROCESS HEARING

Petitioner was represented throughout this litigation by student legal counsel, Janell Davis with the Pacific Justice Institute. The District was represented throughout this litigation by its legal counsel, Cynthia Buechler with Buechler & Associates. The due process hearing was conducted on October ***2025. The hearing was recorded and transcribed by a certified court reporter. The parties timely filed written closing briefs. The decision in this case is due by November 19, 2025.

One joint exhibit was admitted without objection. Thirty-seven of Petitioner's exhibits were admitted into evidence.¹ Fourteen of the District's exhibits were admitted into evidence.² The parties also filed eight joint stipulations of fact, which are reflected in the findings of fact below.

Petitioner called ***, Student's *** teacher; ***, a diagnostician for *** Independent School District (ISD); ***, a school counselor with the District; ***, the principal of the District school Student attended during the 2023-2024 school year; and Student's Parent. The District called *** teacher with the District; ***

¹ Petitioner's Exhibits (P. Exs.) 1-20, 22, 25-29, and 37-47 were admitted. For Petitioner's Exhibit 4, only pages 1-23 and 111-114 were admitted.

² Respondent's Exhibits (R. Exs.) 2-7, 9-13, 19-20, and 22 were admitted. Respondent's Exhibit 7 was admitted for the limited purpose of rebutting any presumption of recent fabrication. For Respondent's Exhibit 9, only pages 3-5 were admitted.

the District's Executive Director of Student Support Services; ***a diagnostician with the District;***, a school psychologist with the District;* * *, a school psychologist with the District; and***, a behavior interventionist with the District.

III. ISSUES

Petitioner identified the following IDEA issues for decision in this case:

1. Whether Student is eligible for services under the IDEA;
2. Whether the District violated Student's rights under Child Find by failing to determine that Student was eligible for special education and related services;
3. Whether the District violated Student's rights under Child Find by punishing Student and removing student from the general education setting for behaviors that were a manifestation of student known and/or suspected disability;
4. Whether the District denied Student a free appropriate public education (FAPE) by failing to conduct a full and individual evaluation (FIE) and functional behavioral assessment (FBA);
5. Whether the District denied Student a FAPE by failing to prepare an appropriate individualized education program (IEP) designed to meet Student's unique needs;
6. Whether the District denied Student a FAPE by failing to include specific and measurable goals in Student's IEP;

7. Whether the District failed to properly train and equip staff in de-escalation techniques and behavior management for students with special needs, as well as failed to train staff in the proper way to restrain a student.

Petitioner requested the following items of relief:

1. Find that Petitioner's rights under Child Find have been violated;
2. Find that Student's right to a FAPE has been violated;
3. Order the District to provide Petitioner with an independent educational evaluation (IEE) for Student and/or reimburse Petitioner for an IEE in the areas of cognitive, achievement, speech impairment (pragmatics, expressive, and receptive), autism, emotional disturbance, psychological, sensory processing disorder, and any other area of known or suspected disability;
4. Order the District to provide compensatory services to address the denial of FAPE including, but not limited to, academic tutoring, counseling, occupational therapy, and applied behavior analysis (ABA) therapy;
5. Reimbursement of any and all out of pocket expenses the family has incurred for evaluations, therapies, and home schooling incurred because of the District's failures;
6. Any and all other remedies that Petitioner may be entitled to under the law.

IV. FINDINGS OF FACT

1. Student, then a *** year-old ***, enrolled in *** at *** in the District at the beginning of the 2023-2024 school year.³
2. *** frequently exhibit problematic behaviors, including ***.⁴
3. In the information submitted by Parents when they enrolled Student in the District, they reported Student did not have attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD), autism, or any other medical conditions requiring medical attention.⁵

A. FALL SEMESTER 2023-2024 SCHOOL YEAR

4. The first academic day for the 2023-2024 school year was August 16, 2023.⁶
5. On September ***, 2023, Student hit someone at ***.⁷
6. On September ***, 2023, Student's Parent notified Student's teacher, *** that Student was starting play therapy the next week.⁸
7. On October ***, 2023, the District was notified that Student had been participating in therapy at *** for adjustment disorder unspecified.⁹

³ Joint Stipulations of Fact (J. Stip.).

⁴ Transcript (Tr.) at 66-67, 583-584.

⁵ P. Ex. 8.

⁶ J. Stip.

⁷ P. Ex. 12.

⁸ P. Ex. 12.

⁹ P. Ex. 8.

8. Adjustment disorders are temporary in nature.¹⁰
9. On October ***, 2023, Student *** at another student while at the water fountain. Student then ran away and *** student teacher.¹¹
10. On November ***, 2023, Student refused to sit at student desk, tried to ***, and *** student teacher.¹²
11. On November ***, 2023, Student was***.¹³
12. On December ***, 2023, Student received a disciplinary referral for *** and *** the teacher and other students. Student had been *** others all week and the teacher did not want student back in class that day. Student received a warning.¹⁴
13. On December ***, 2023, Student received a disciplinary referral for *** another student, *** another student. Student lost *** for the day and received a lunch detention.¹⁵

B. SPRING SEMESTER 2023-2024 SCHOOL YEAR

14. On January ***, 2024, Student received a disciplinary referral for***. Student received a detention. Student was also restrained.¹⁶

¹⁰ Tr. at 166.

¹¹ P. Ex. 10.

¹² P. Ex. 10.

¹³ P. Ex. 10.

¹⁴ P. Ex. 9, 11; R. Ex. 6.

¹⁵ P. Ex. 9, 10; R. Ex. 6.

¹⁶ P. Ex. 6, 9, 10; R. Ex. 6.

15. On January ***, 2024, Student *** another student was caring for and *** another student. Student said student was going to *** student. Student received a disciplinary referral.¹⁷
16. On January ***, 2024, Student's Parent texted *** asking if they needed to set up behavioral evaluations due to Student's many referrals. *** responded that she had met with the behavior interventionist, that she wanted to continue using a rewards chart, and that she would love to start a process of evaluations at school to see if there were other ways to help Student.¹⁸
17. On January ***, 2024, Student refused to work, ***.¹⁹
18. Also on January ***, 2024, a behavior interventionist for the District had Student do work with her in her office.²⁰
19. On January ***, 2024, *** tried placing Student in another class with a different teacher to see how student would respond. Student had a great day and said student wanted to do it again. Student's Parent reported that they had seen this before, in ***, and that a scenery change could lead to favorable behavior from Student.²¹
20. On January ***, 2024, Student was in another teacher's class again. Student tried to *** another student. After a cooldown, the day went well.²²
21. On January ***, 2024, a Plan for Intervention and Support under the District's Multi-Tiered Support System (MTSS) was developed. The plan was designed to be implemented over 18 instructional weeks. Supporting strategies included a

¹⁷ P. Ex. 10.

¹⁸ P. Ex. 10.

¹⁹ P. Ex. 10, 16.

²⁰ P. Ex. 16.

²¹ P. Ex. 10.

²² P. Ex. 10

schedule and visual reminders; using a soothing voice; breaks; positive reinforcement; reminders of rewards for completing goals; proximity control; and reminders to stay on task and stay safe. Student had goals for complying with teacher directives and keeping hands, feet, and objects to student.²³

22. On January ***, 2024, Student was in another teacher's class. Student refused to do work and ***.²⁴
23. On January ***, 2024, Student received a disciplinary referral for ***. Student received a one day in-school suspension.²⁵
24. On February 1, 2024, *** submitted a form to have Student placed in another classroom due to repeated disruption of the learning environment and multiple *** on students and staff.²⁶
25. Student's schedule had student rotating between several different *** teachers each day. This type of schedule was not typical for a *** student.²⁷
26. On February ***, 2024, a teacher submitted a disciplinary referral for Student *** another student.²⁸
27. On February ***, 2024, District sent Parents a consent form for Section 504 evaluations. Student's Parent signed the consent on February ***, 2024.²⁹
28. In the parent information provided for the Section 504 evaluation, Student's Parent reported that Student was well behaved. Student would throw fits, but nothing out of the ordinary for student age. Student's Parent reported that Student

²³ P. Ex. 8; Tr. at 44.

²⁴ P. Ex. 10, 16.

²⁵ R. Ex. 6.

²⁶ P. Ex. 17.

²⁷ P. Ex. 7; Tr. at 441.

²⁸ P. Ex. 17.

²⁹ P. Ex. 8.

was ***. It was reported that Student was kicked out of *** for student inability to listen and keep student hands to student. A family history of ADHD was reported. It was reported that Student was in play therapy.³⁰

29. On February ***, 2024, the District emailed disclosure forms to Parents regarding obtaining information from Student's outside counselor.³¹
30. On February ***, 2024, Student's Parent sent an email to***, a counselor with the District, requesting that Student be tested for special education and related services.³²
31. The District's policy is to evaluate any student after receiving a request for a special education evaluation.³³
32. On February ***, 2024, Student received a disciplinary referral for *** another student ***. Student *** the other student and ***student. Student received a one day in-school suspension.³⁴
33. Also on February ***, 2024, Student received a disciplinary referral for***. Student received another one day in-school suspension.³⁵
34. Also on February ***, 2024, Student was restrained after *** another student twice. The classroom was ***.³⁶

³⁰ P. Ex. 8; R. Ex. 9.

³¹ P. Ex. 17.

³² P. Ex. 17.

³³ Tr. at 419-420, 502.

³⁴ P. Ex. 9.

³⁵ P. Ex. 9.

³⁶ P. Ex. 6.

35. On February ***, 2024, Student received a disciplinary referral for refusing to follow directions, then trying ***. Student also***. Student received a one day in-school suspension.³⁷
36. On February ***, 2024, the principal reached out to Parents regarding scheduling a meeting to discuss strategies for managing Student's behaviors. Student's Parent responded stating that Parents do not see these behaviors at home and questioning if a public school was the right setting for Student.³⁸
37. On February ***, 2024, Student received a disciplinary referral for *** a student. Student received a one day in-school suspension.³⁹
38. On February ***, 2024, the District notified Parents that they had received the referral for a special education evaluation. Evaluation forms were sent for Parents to complete. February ***, 2024, was the 15th school day after February ***, 2024, when Student's Parent sent a request for Student to be evaluated.⁴⁰
39. On February ***, 2024, Student received a disciplinary referral for ***. Student also *** belongings. Student received two days of in-school suspension.⁴¹
40. Student was restrained on or about March ***, 2024.⁴²
41. On March ***, 2024, Student ***.⁴³

³⁷ P. Ex. 9, R. Ex. 6.

³⁸ P. Ex. 17.

³⁹ R. Ex. 6.

⁴⁰ P. Ex. 17, 25; R. Ex. 3.

⁴¹ P. Ex. 9, 11, 17, 25; R. Ex. 6.

⁴² P. Ex. 11.

⁴³ P. Ex. 11.

42. On March ***, 2024, Student received a disciplinary referral for ***. Student received a one day in-school suspension.⁴⁴
43. Also on March ***, 2024, Student was restrained and escorted to the office by Principal***, another staff member, after student was *** towards other students and staff. During this restraint, District staff utilized a restraint that was not permitted under their training when they picked up student by student arms and legs. Later that day, staff denied Student access to the school counselor. That night, Parents found bruising and abrasions on Student's arms, underarms, and back, as well as a scratch near student ankle.⁴⁵
44. *** had received crisis prevention intervention (CPI) training, which included training on de-escalation and restraints. The training was provided every year. After the improper restraint on March ***, 2024, both ***were retrained on appropriate use of restraints.⁴⁶
45. Also on March ***, 2024, ***sent an email to Parents regarding the incident. In the email, she requested that Parents return the intervention plan and testing documents so that the District could begin providing the necessary supports and services.⁴⁷
46. Parents signed the consent for an FIE on March ***, 2024.⁴⁸
47. Student did not attend school in the District after March ***, 2024.⁴⁹
48. On March ***, 2024, an initial Section 504 Meeting was held for Student. It was determined that Student was eligible for services under Section 504 as a student

⁴⁴ P. Ex. 9; R. Ex. 6.

⁴⁵ P. Ex. 5, 6, 18, 28, 37-45; Tr. at 151, 303.

⁴⁶ Tr. at 186-187, 415, 429, 467.

⁴⁷ P. Ex. 18.

⁴⁸ R. Ex. 4.

⁴⁹ Tr. at 298-299.

with an adjustment disorder. Parents stated that they did not feel safe bringing Student to school after the March ***, 2024 restraint. The meeting was put on hold and it was agreed to resume later.⁵⁰

49. On March ***, 2024, Student's Parent sent an email to the school discussing student concerns regarding Student possibly having ADHD or autism as well as concerns about the District's treatment of Student.⁵¹
50. On March 28, 2024, the District notified Parents that the District's Section 504 coordinator and *** would be in attendance at the upcoming Section 504 meeting to discuss Parents' concerns and that the diagnostician could meet with Parents after the meeting to review the special education evaluation forms and address any questions or concerns regarding the evaluation process.⁵²
51. Student's Section 504 Meeting resumed on April ***, 2024. Accommodations were agreed to, including positive reinforcement; access to noise-cancelling headphones; access to a calm down area; breaks; a visual schedule; utilizing if-then statements; a reward system; and providing choices.⁵³
52. In early April 2024, Parents began emailing *** in preparation for transferring Student to that district.⁵⁴
53. On April ***, 2024, Student's Parent sent an email to the District notifying them that events had caused Parents to question the safe handling of Student. Student's Parent notified the District that they were temporarily removing Student from instruction.⁵⁵

⁵⁰ P. Ex. 4, 28.

⁵¹ P. Ex. 18.

⁵² P. Ex. 18

⁵³ P. Ex. 4, 29.

⁵⁴ P. Ex. 47.

⁵⁵ P. Ex. 8.

54. On April 18, 2024, the District sent an email to Parents with proposed dates for Student's evaluation and asking Parents to complete rating scales. Parents did not respond.⁵⁶
55. On May 1, 2024, the District sent another email to Parents proposing dates for Student's evaluation and asking Parents to complete rating scales. Parents responded requesting access to the rating scales. Parents did not respond to the request for dates to evaluate Student.⁵⁷
56. On May 29, 2024, the District sent another email to Parents asking for dates Student was available to be evaluated. Parents did not respond to the request for dates to evaluate Student.⁵⁸
57. Student's 2023-2024 *** report card showed that Student had already developed or was developing in all evaluated areas. Student's performance was marked as ***.⁵⁹
58. District staff are trained annually on Child Find.⁶⁰
59. District staff testified that they did not suspect Student had a disability and needed specialized instruction at any point during the 2023-2024 school year.⁶¹

⁵⁶ R. Ex. 5, Tr. at 488, 540.

⁵⁷ R. Ex. 5, Tr. at 488, 540.

⁵⁸ R. Ex. 5, Tr. at 489-490, 540.

⁵⁹ Join Exhibit (J. Ex.) 1.

⁶⁰ Tr. at 52, 229, 366, 405.

⁶¹ Tr. at 56, 179, 250, 263, 366, 425, 565.

C. 2024-2025 SCHOOL YEAR

60. Student transferred to *** ISD for the 2024-2025 school year.⁶²

61. Student's *** ISD admission, review, and dismissal (ARD) committee meeting convened on January ***, 2025. It was determined that Student was eligible for services as a student with an other health impairment (OHI) for ADD/ADHD and an emotional disability.⁶³

V. 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). Because Student was not found eligible under the IDEA during student time at the District, the burden is on Petitioner to prove that the District failed to appropriately identify Student as a student with a disability in need of special education. 20 U.S.C. § 1412(a)(3); *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. 386, 404 (2017).

B. CHILD FIND

Congress enacted the IDEA's Child Find provisions to guarantee access to special education. 20 U.S.C. § 1400(d)(1)(A). To that end, the IDEA's Child Find obligation imposes on each school district an affirmative duty to have policies and procedures in place to locate and timely evaluate children with suspected disabilities

⁶² P. Ex. 47; J. Stip.

⁶³ P. Ex. 4.

in its jurisdiction, including “[c]hildren who are suspected of being a child with a disability and in need of special education, even though they are advancing from grade to grade. 34 C.F.R. § 300.111(a); *Spring Branch Indep. Sch. Dist. v. O.W. bnf Hannah W.*, 938 F.3d 695, 704 (5th Cir. 2019); *El Paso Indep. Sch. Dist. v. Richard R.R.*, 567 F. Supp. 2d 918, 949 (W.D. Tex. 2008).

The analysis for resolving a Child Find claim requires three factual determinations. First, the date the school district had notice of the student’s likely disability. Second, the date the Child Find duty was ultimately satisfied. Third, the reasonableness of the delay between those two dates. *Spring Branch Indep. Sch. Dist. v. O.W.*, 938 F.3d at 706; *Krawietz ex rel. Parker v. Galveston Indep. Sch. Dist.*, 900 F. 3d 673, 676 (5th Cir. 2018).

1. Notice of Likely Disability

The Child Find duty is triggered when a school district has reason to suspect a student has a disability coupled with reason to suspect that special education services may be needed to address the disability. When these suspicions arise, the school district must evaluate the student within a reasonable time after school officials have notice of reasons to suspect a disability. *El Paso Indep. Sch. Dist. v. Richard R.R.*, 567 F. Supp. 2d at 950.

Neither the IDEA nor federal regulations define what it means to “need” special education. *Lisa M. v. Leander Indep. Sch. Dist.*, 924 F.3d 205, 215-16 (5th Cir. 2019). Judges must consider the unique facts and circumstances of each case, including parent input and teacher recommendations, as well as information about

the student's physical condition, social, or cultural background, and adaptive behavior, as opposed to simply grades or test scores. *Alvin Indep. Sch. Dist. v. A.D. ex rel. Patricia F.*, 503 F.3d 378, 383 (5th Cir. 2007). Although grades are a consideration, they are not the exclusive one in determining a student's need for special education. *D.L. by and through J. L. v. Clear Creek Indep. Sch. Dist.*, 695 F. App'x 733, 737-738 (5th Cir. 2017).

a) Fall 2023 Semester

When Parents enrolled Student in the District, they did not inform the District that Student had a disability or raise concerns regarding a need for special education. While the District became aware in October 2023 that Student had been diagnosed with an adjustment disorder, an adjustment disorder is not necessarily a qualifying disability under the IDEA category of emotional disturbance because it does not occur over a long period of time. *See*, 34 C.F.R. § 300.8(4)(i). The Office of Special Education Programs (OSEP) has stated that a generally acceptable definition of "a long period of time" is a range of time from two to nine months, assuming preliminary interventions have been implemented and proven ineffective during that period. *Letter to Anonymous*, 213 IDELR 247 (OSEP 1989).

Students in ***, including students who are not eligible for services under the IDEA, regularly exhibit negative behaviors including *** other students. While Student *** other students on at least six occasions during the fall 2023 semester, Student was a *** and had been diagnosed with an adjustment disorder. Student's grades indicate that student was performing well academically. Student's teachers testified that they did not suspect Student had a

disability or a need for special education. No other information in the record would have alerted the District to a likely qualifying disability. Therefore, taken together, Petitioner has not proven by a preponderance of the evidence that the District had notice of a likely disability in the fall 2023 semester.

b) January and early February 2024

During January 2024, there were six recorded behavioral incidents involving Student, including four incidents of Student *** others. Additionally, on January ***, 2024, Parents asked Student's teacher if they needed to set up behavioral evaluations due to Student's many referrals. On February 1, 2024, *** submitted a form to have Student moved to another class due to student repeated disruption of the learning environment and multiple *** on students and staff. In response to Student's increasing behaviors, the District began MTSS services and the process of evaluating Student under Section 504. Student received additional disciplinary referrals on February ***, 2024. On February 7, 2024, Student's Parent requested a special education evaluation.

Despite the increase in the frequency of Student's concerning behaviors in January and early February 2024, Petitioner has not shown that Student's behaviors should have alerted the District to any disability beyond student previously diagnosed adjustment disorder. As discussed above, an adjustment disorder is not necessarily a qualifying disability under the IDEA due to its temporary nature. Even if Student's adjustment disorder were a potentially qualifying disability, the evidence did not support a finding that the District had reason to suspect Student may be in need of special education services.

Early in the spring semester, the District began instituting interventions to address Student's adjustment disorder. Depending on the unique circumstances of a case, when a student demonstrates improper behaviors that are not uncommon for students of that age, a district may properly address those behaviors by implementing intermediate measures before concluding that a student's misbehavior denotes a disability or disorder and resorting to evaluation. *See, Spring Branch Indep. Sch. Dist. v. O.W. by Hannah W.*, 961 F.3d 781 at 794 (5th Cir. 2020); *D.K. v. Abington Sch. Dist.*, 696 F.3d 233 at 251-252 (3d Cir. 2012). District staff testified that Student's behaviours were not uncommon for ***. In the information provided to the District for Section 504 evaluations, Student's Parent reported that Student would ***, but nothing out of the ordinary for student age. Student's adjustment disorder was not necessarily a qualifying disability and Petitioner has not shown that District's belief that the adjustment disorder would respond to MTSS and Section 504 services was incorrect. Therefore, the District's decision to attempt to implement MTSS and Section 504 services to address Student's behaviors was not inappropriate under the unique facts of this case.

While the District would have needed to reconsider whether Student's disability was temporary, and therefore whether it was a qualifying disability under the category of emotional disturbance, if the interventions were not successful, the interventions had only recently been implemented and the District did not yet know if they would be successful. OSEP has provided guidance stating that MTSS strategies cannot be used to delay or deny the evaluation of a student with a suspected qualifying disability or to delay or deny evaluation after a parental request.

Memorandum to State Directors of Special Education, 56 IDELR 50 (OSEP 2011). In this case, the District did not suspect Student had a qualifying disability because Student's behaviors were not uncommon for *** and Student had a non-qualifying, temporary disability impacting student behavior. As discussed below, once the District received Parents' request, the District moved forward with attempting to complete the evaluations within the time period allowed for by law and did not use MTSS services to delay or deny the evaluation.

Given the short period of time between the increase in Student's negative behaviors and Parents' request for evaluation, Student being a ***, the temporary nature of Student's diagnosis, and the recent implementation of new interventions, Petitioner has not proven, by a preponderance of the evidence, that the District had reason to suspect that Student had a qualifying disability or need for special education services prior to Parents' request for a special education evaluation on February 7, 2024.

2. Notice of Intent to Evaluate

When a school district receives a request for a special education evaluation, they must respond within 15 school days either agreeing to the evaluations and giving parents the consent forms or denying the request and providing the procedural safeguards. 19 Tex. Admin. Code § 89.1011. On February 7, 2024, Student's Parent sent an email to the District requesting a special education evaluation. Pursuant to district policy, the District evaluates any student if they receive a request for special education evaluation. On February 29, 2024, the District notified Parents that they had received the request for a special education evaluation and provided Parents with

the consent forms. February 29, 2024, was the 15th school day after February 7, 2024. Therefore, the District was within the timeframe for agreeing to the request and providing Parents with consent to evaluate.

3. Reasonable Time to Evaluate

The second issue under Child Find is whether the school district evaluated the student within a reasonable time after notice of the student's suspected disability. *Dallas Indep. Sch. Dist. v. Woody*, 865 F.3d 303, 319-20 (5th Cir. 2017). The delay between the time the school district has notice of a suspected disability and the time the evaluation is conducted is reasonable when, throughout the period between the notice and referral, the school district takes proactive steps to comply with its Child Find duty. Conversely, the time period between notice of the suspected disability and the evaluation is unreasonable when the school district fails to take any proactive steps or ceases to continue taking proactive steps during the time period. *Spring Branch Indep. Sch. Dist. v. O.W.*, 938 F. 3d at 706-707. Although proactive steps may include a reasonable time for the parent to provide consent or to respond to a request for parental information, the IDEA imposes the Child Find duty affirmatively on the school district, not the parent. *See, Krawietz v. Galveston Indep. Sch. Dist.*, 900 F.3d at 677.

The District did not have notice of a likely disability prior to receiving Parents' request for a special education evaluation. While waiting for Parents to return the consent forms, the District began implementing MTSS and preparing Student's Section 504 services. Parents signed the consent for evaluation on March 20, 2024, which was also the last day Student attended classes in the District. The District

reached out to Parents on several occasions after Student stopped attending classes to set up a date to evaluate Student, but the record does not show that Parents ever responded agreeing to those dates, declining those dates, or suggesting other dates. Shortly after Student stopped attending classes in the District, Parents began speaking to another school district, *** ISD, about enrolling Student in that district. Student never returned to the District and was enrolled in *** ISD the following school year.

While the District did not complete its evaluation of Student, this failure was not due to a lack of action by the District, but rather to Parents' refusal to make Student available for an evaluation. Therefore, Petitioner has not proven, by a preponderance of the evidence, that the District unreasonably delayed in evaluating Student or otherwise violated its Child Find duty through not evaluating Student.

C. PUNISHMENTS AND REMOVALS

Petitioner contends that the District violated Student's rights under Child Find by punishing Student and removing student from the general education setting for behaviors that were a manifestation of student known and/or suspected disability. Although Student was never recognized by the District as a child with a disability, a student is deemed to be a child with a disability for the purposes of manifestation determination reviews after a parent requests an evaluation, which Parents did on February 7, 2024. However, if a parent does not allow the student to be evaluated, a school district is not deemed to have knowledge that a student is a child with a disability and the student is subject to the disciplinary measures applied to children without disabilities. 34 C.F.R. § 300.534. Even if the evidence supported the

conclusion that the District was deemed to have knowledge that Student was a child with a disability, no manifestation determination review was required. If a child with a disability is removed from student current placement for more than 10 school days, a manifestation determination must be performed. 34 C.F.R. § 300.530. The record in this matter reflects that Student received eight days of in-school suspensions during the 2023-2024 school year. Because Student was not removed from student placement for more than 10 school days during the 2023-2024 school year, the District was not required to perform a manifestation determination review.

Petitioner also alleges that the District improperly punished Student, including by denying student access to student counselor on March 20, 2024, after Student was restrained. However, while denying Student access to a counselor as punishment may not be appropriate, Petitioner has not shown how this action or any other punishments Student received during the 2023-2024 school year violated Student's rights under the IDEA.

D. FAILURE TO TRAIN STAFF

Petitioner alleges that the District failed to properly train and equip staff in de-escalation techniques and behavior management for students with special needs. District staff involved in restraint attended annual CPI training. Although this case does involve an instance of improper restraint, the staff members involved were trained in the proper use of restraint and retrained after the incident in accordance with state law. *See*, 19 Tex. Admin. Code § 89.1053(d). Petitioner has not shown that the training was inappropriate, that additional training was required, or how any alleged lack of training resulted in a denial of a FAPE. Therefore, Petitioner has failed

to prove, by a preponderance of the evidence, that the District failed to properly train staff in de-escalation or restraint.

E. ELIGIBILITY UNDER THE IDEA

To be eligible for services under the IDEA, a student must have a qualifying disability and, because of that disability, need special education and related services. 20 U.S.C. § 1401(1)(3)(A). The District offered to evaluate Student for eligibility under the IDEA, but Student did not complete the evaluations due to Parents' refusal to make Student available. Because the District did not have the opportunity to evaluate Student and determine if student was eligible for services under the IDEA, Petitioner has not proven that the District should have known Student was eligible for services under the IDEA or that the District denied Student a FAPE by failing to find Student eligible for services under the IDEA.

F. DENIAL OF A FAPE

Petitioner alleges that the District denied Student a FAPE by failing to conduct an FIE and FBA, failing to prepare an IEP, and failing to include appropriate goals in the IEP. As discussed above, the District did not conduct an FIE and FBA due to Parents not allowing the District access to Student to perform evaluations. Because the District could not conduct the evaluations, they could not determine if Student was eligible for services under the IDEA. Because they could not determine eligibility, they did not prepare an IEP. Because the District did not prepare an IEP, the IEP did not include any goals. Because these failures were traceable to Parent's refusal to allow evaluations instead of any failure by the District, Petitioner has not proven, by a preponderance of the evidence, that the District denied Student a FAPE

by failing to conduct an FIE and FBA, failing to prepare an IEP, and failing to include appropriate goals in the IEP.

VI. CONCLUSIONS OF LAW

1. The burden of proof in a due process hearing is on the party seeking relief. *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 62 (2005).
2. Petitioner did not meet student burden of proof to show that Student was eligible for special education and related services under the IDEA during the relevant time period. *El Paso Indep. Sch. Dist. v. Richard R.R.*, 567 F. Supp. 2d at 950; 34 C.F.R. § 300.8(4)(i).
3. Petitioner did not meet student burden to prove that the District violated its Child Find obligation during the relevant time period. *Spring Branch Indep. Sch. Dist. v. O.W. bnf Hannah W.*, 938 F.3d 695, 704 (5th Cir. 2019); 34 C.F.R. § 300.111.
4. Petitioner did not meet student burden to prove that the District violated its Child Find obligation during the relevant time period by punishing or removing Student from student instructional setting. 34 C.F.R. § 300.530.
5. Because Petitioner did not prove Student was eligible for services under the IDEA during student time in the District, Petitioner did not meet student burden to prove that the District denied Student a FAPE by failing to conduct an FIE and FBA. 34 C.F.R. § 300.301.
6. Because Petitioner did not prove Student was eligible for services under the IDEA during student time in the District, Petitioner did not meet student burden to prove that the District denied Student a FAPE by failing to prepare an appropriate IEP designed to meet Student's unique needs. 34 C.F.R. § 300.324.
7. Because Petitioner did not prove Student was eligible for services under the IDEA during student time in the District, Petitioner did not meet student burden to prove that the District denied Student a FAPE by failing to

include specific and measurable goals in Student's IEP. 34 C.F.R. § 300.320.

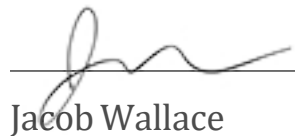
8. Petitioner did not meet student burden to prove that the District failed to train staff who work with Student appropriately. 34 C.F.R. § 300.156(a); 19 Tex. Admin. Code § 89.1053(c)-(d).

ORDER

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

Signed November 19, 2025

ALJ Signature:



Jacob Wallace

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).