

**DOCKET NO. 300-SE-0519**

<b>STUDENT B/N/F PARENT,</b>	§	<b>BEFORE A SPECIAL EDUCATION</b>
<b>Petitioner</b>	§	
	§	
<b>V.</b>	§	<b>HEARING OFFICER FOR</b>
	§	
<b>NORTHSIDE INDEPENDENT</b>	§	
<b>SCHOOL DISTRICT,</b>	§	
<b>Respondent</b>	§	<b>THE STATE OF TEXAS</b>

**DECISION OF THE HEARING OFFICER**

**I. STATEMENT OF THE CASE**

Petitioner, STUDENT, by Student’s next friend PARENT (Student or, collectively, Petitioner), filed a request for an impartial due process hearing (Complaint) under the Individuals with Disabilities Education Act (IDEA) and its implementing state and federal regulations on May 16, 2019, with Notice of the Complaint issued by the Texas Education Agency (TEA) on the same day. The Respondent to the Complaint is the Northside Independent School District (Respondent or District). The main issue in this case is whether the District provided Student a Free Appropriate Public Education (FAPE) in Student’s Least Restrictive Environment (LRE). The Hearing Officer concludes the District complied with its obligations under the IDEA and provided Student with a FAPE in the LRE.

**II. PROCEDURAL HISTORY**

**A. Legal Representatives**

Petitioner was represented throughout this litigation by Petitioner’s legal counsel, Martin Cirkiel and Dominique Augustus of Cirkiel & Associates, P.C. Respondent was represented throughout this litigation by its legal counsel, Elvin Houston and Priscilla de La Garza of Walsh, Gallegos, Treviño, Russo & Kyle, P.C.

**B. Resolution Efforts**

The parties participated in a resolution session on June 10, 2019, but did not reach an agreement. The parties engaged in informal settlement negotiations throughout the pendency of the litigation. However, the parties were unable to resolve this matter informally. The parties did not elect to attend mediation.

**III. DUE PROCESS HEARING**

The due process hearing was held in the District August 21-22, 2019. Petitioner continued to be represented by Petitioner's attorneys, Martin Cirkiel and Dominique Augustus. In addition, Student's parents \*\*\* attended the hearing. Student also attended the hearing in person. \*\*\*.

Respondent continued to be represented by its legal counsel, Elvin Houston and Priscilla de La Garza. \*\*\*, Compliance Officer for the District, also attended the hearing as the party representative. The hearing was recorded and transcribed by a certified court reporter.

On August 9, 2019, the Hearing Officer granted Respondent's Motion to Compel in Order No. 5. Petitioner did not comply with the Order. Because Petitioner did not comply with the Hearing Officer's Order requiring Petitioner to produce certain responsive documents, Petitioner agreed at the start of the hearing to refrain from presenting any evidence of Student's alleged \*\*\* issues and whether those were addressed fully by the District or prevented Student from receiving a FAPE.<sup>1</sup>

At the conclusion of the hearing, the parties requested the record remain open to allow for submission of written closing arguments. The parties also requested access to the hearing transcript prior to submitting their arguments. Both parties submitted timely closing arguments on September 23, 2019. The Hearing Officer's decision is due on October 14, 2019.

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<sup>1</sup> Hearing Transcript at 22 (Tr. at \_\_\_).

#### IV. ISSUES

##### A. Petitioner's Issues

Petitioner submitted the following issues, as stated in Order No. 4:

1. Whether Respondent provided Student educational services in Student's LRE.
2. Whether Respondent failed to provide Student services from \*\*\* and, by failing to do so, denied Student the opportunity to interact appropriately with Student's peers.
3. Whether Respondent failed to provide Student a FAPE by failing to meet Student's unique academic and non-academic needs, in particular by failing to provide \*\*\*.
4. Whether Respondent failed to collaborate with Student's parents in the development and implementation of an appropriate Individualized Education Plan (IEP).
5. Whether Respondent failed to provide Student an opportunity to participate \*\*\* with appropriate accommodations.
6. Whether Respondent failed to respond to new Student needs that arose after Student \*\*\*.

##### B. Respondent's Legal Position and Additional Issues

Respondent generally and specifically denied each and every allegation raised by Petitioner and denied responsibility for providing any of Petitioner's requested relief.

#### V. REQUESTED RELIEF

Petitioner requested the Hearing Officer order the following relief:

1. Order Respondent to provide an Independent Educational Evaluation (IEE) in all areas of need.
2. Order Respondent to provide a psychological assessment to determine the long-term impact of being denied a FAPE.
3. Order Respondent to provide direct services from \*\*\*.
4. Order Respondent to provide Student increased contact with \*\*\*.
5. Order Respondent to provide Student's parents a \$1,000 stipend for parental training.
6. Order Respondent to reimburse Student's parents for out-of-pocket expenses that resulted from Respondent's failure to provide Student a FAPE.
7. Order Respondent to provide any other relief that the Hearing Officer deems appropriate.

## VI. FINDINGS OF FACT

### Background Information

1. Student is \*\*\* years old and is in the \*\*\* grade. Student resides with Student's parents in the District and has been a student in the District since the 2012-13 school year.<sup>2</sup> Until March 2019, Student attended \*\*\* (\*\*\*), \*\*\* in the District.<sup>3</sup> Student withdrew from school in March 2019 and has been homeschooled since that time.<sup>4</sup>

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<sup>2</sup> Joint Exhibit 8 at 2, (JE \_\_ at \_\_).

<sup>3</sup> JE 1 at 2; Tr. at 289.

<sup>4</sup> Tr. at 277.

2. Student qualifies for special education with a primary disability of \*\*\* and a secondary disability of Speech Impairment. \*\*\* (\*\*\*).<sup>5</sup>
3. According to the most recent reevaluation conducted in 2017, Student has a full scale IQ of \*\*\*, which is in the average range. Student is “very smart” \*\*\* Student excels academically.<sup>6</sup> At the time Student withdrew from the District in March 2019, Student was passing all of Student’s classes.<sup>7</sup>

### **Student’s Placement**

4. The District has a system under which most students \*\*\*. Each of those schools is located in the District. The District is then able to centralize \*\*\* services \*\*\* on those campuses.<sup>8</sup>
5. While most District students \*\*\*, some students choose to attend school at their home campuses or \*\*\* schools instead. The District serves those students through various accommodations, including “itinerant support,” which provides a \*\*\* teacher to consult with the student’s teachers.<sup>9</sup>
6. Student chose to attend \*\*\* instead of \*\*\* beginning in the 2017-18 school year when Student was in \*\*\* grade. Student needed to apply and be accepted into \*\*\* based on Student’s ability to perform rigorous academic work.<sup>10</sup> \*\*\*.<sup>11</sup> Student attends all Student’s classes in a mainstream, general education environment.<sup>12</sup>

### **Student’s Accommodations**

7. The District held an annual Admission, Review and Dismissal (ARD) Committee meeting for Student in May 2018 to develop an IEP for the 2018-19 school year. The meeting ended with all parties in agreement about the IEP. Student is provided 315 minutes of \*\*\* services in Student’s classes each day under Student’s IEP.<sup>13</sup> The District has provided

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<sup>5</sup> JE 8 at 1.

<sup>6</sup> Tr. at 92, 242.

<sup>7</sup> JE 7.

<sup>8</sup> Tr. at 162.

<sup>9</sup> *Id.*

<sup>10</sup> JE 1 at 2; Tr. at 225.

<sup>11</sup> Tr. at 56.

<sup>12</sup> JE 1 at 17.

<sup>13</sup> JE 1 at 21.

Student \*\*\* during the school day.<sup>14</sup> The District is not required to provide more than \*\*\* for Student, but does so in accordance with best practices.<sup>15</sup> At times, one of Student's \*\*\* is unavailable to Student, leaving Student with \*\*\*.<sup>16</sup> The vast majority of the time, Student has \*\*\*.<sup>17</sup>

8. The \*\*\* attended each of Student's classes with Student.<sup>18</sup> The \*\*\* are also with Student when Student \*\*\*.<sup>19</sup> Student also receives transportation services each day from the District, but the \*\*\* do not accompany Student on the school bus.<sup>20</sup>
9. Student receives 60 minutes per year of "itinerant support" \*\*\*.<sup>21</sup> Student also receives counseling in school from a counselor \*\*\*. Before she started working with Student, the counselor conducted a counseling assessment to guide the services \*\*\* provided.<sup>22</sup> The counselor also serves as a role model for Student.<sup>23</sup> She encouraged Student to be a strong self-advocate and helped Student decide what Student wanted in Student's future.<sup>24</sup> The District provides Student 45 minutes per month of counseling.<sup>25</sup>

### The 2018-19 School Year

10. During the summer of 2018, Student attended a \*\*\* camp \*\*\* with \*\*\* students from around the state. The District provided Student's \*\*\* from the District for the \*\*\* so Student could participate.<sup>26</sup>
11. Student attended \*\*\* for \*\*\* grade during the 2018-19 school year. Academically, Student was successful and excelled in Student's classes. Both parties acknowledge that the District fulfilled its obligations under the IDEA academically during the 2018-19 school year.<sup>27</sup>

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<sup>14</sup> Tr. at 367.

<sup>15</sup> Tr. at 166.

<sup>16</sup> Respondent's Exhibit 2, page 3 (RE\_\_ at \_\_).

<sup>17</sup> Tr. at 34-5.

<sup>18</sup> JE 1 at 21.

<sup>19</sup> Tr. at 34-5.

<sup>20</sup> *Id.*; Tr. at 60.

<sup>21</sup> JE 1 at 21.

<sup>22</sup> Tr. at 221.

<sup>23</sup> Tr. At 235.

<sup>24</sup> Tr. at 113-14.

<sup>25</sup> JE 1 at 21;

<sup>26</sup> Tr. at 88-9.

<sup>27</sup> Tr. at 378; Petitioner's Closing Argument, Page 12 (PCA at \_\_).

12. Student \*\*\*. The District provided \*\*\* for Student during \*\*\*. Student also \*\*\*, where the District also provided Student \*\*\*.<sup>28</sup>
13. Student started \*\*\* at \*\*\*. The goal of \*\*\* so Student could better communicate with them.<sup>29</sup>
14. Student also advocated for \*\*\*self and other students to receive better services \*\*\*. Student believed the students needed more \*\*\* on their campuses and \*\*\*, so Student learned to tell Student's story and advocate effectively for Student's needs \*\*\*.<sup>30</sup> The District also provided Student an opportunities to teach other students in the District \*\*\*.<sup>31</sup>
15. Student participated \*\*\* during the 2018-19 school year. The \*\*\* accompanied Student to \*\*\*.<sup>32</sup> Student \*\*\*. Student excelled \*\*\*.<sup>33</sup>
16. During the fall of 2018, Student asked to participate \*\*\*. \*\*\*. \*\*\*.<sup>34</sup>
17. In order for Student to participate effectively in \*\*\*, Student needed a \*\*\*.<sup>35</sup> \*\*\*. \*\*\*.<sup>36</sup>
18. Student's ARD Committee convened on November \*\*\*, 2018, for the purpose of recommending the District provide Student a \*\*\* so Student can \*\*\*. The ARD Committee approved the \*\*\*. Student began working with the \*\*\* in January 2019 and \*\*\* in the spring.<sup>37</sup>
19. Student utilized transportation provided by the District during the 2018-19 school year. Student's \*\*\* did not accompany Student on the bus. Student did not want Student's \*\*\* to help Student socialize with peers, because Student \*\*\*.<sup>38</sup>

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<sup>28</sup> Tr. at 84-5.

<sup>29</sup> Tr. at 55-6.

<sup>30</sup> Tr. at 55.

<sup>31</sup> Tr. At 101.

<sup>32</sup> Tr. at 380.

<sup>33</sup> Tr. at 389.

<sup>34</sup> Tr. at 370.

<sup>35</sup> Tr. at 379-80.

<sup>36</sup> Tr. at 49.

<sup>37</sup> Tr. at 379.

<sup>38</sup> Tr. at 59.

20. \*\*\*. \*\*\*. Student did not know what was happening.<sup>39</sup> The District does not provide access to \*\*\* for any students while on the bus.<sup>40</sup>
21. In January 2019, Student experienced health issues that led to \*\*\*. Student's mother requested an ARD Committee meeting to discuss the health issues. The District set a meeting, but Student's mother had to cancel the meeting.<sup>41</sup> The District also set an ARD meeting for March \*\*\*, 2019, but Student's parents also were not able to attend that one.<sup>42</sup>
22. In March 2019, Student left the District to be homeschooled. As of the hearing, Student had not returned to school in the District.

## VII. DISCUSSION

### A. Burden of Proof

The burden of proof in a due process hearing is on the party challenging the proposed IEP and placement.<sup>43</sup> *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *Teague Indep. Sch. Dist. v. Todd L.*, 999 F.3d 127, 131 (5th Cir. 1993). Therefore, the burden of proof in this case is on Petitioner. *See Schaffer*, 546 U.S. at 62.

### B. Duty to Provide a FAPE

Petitioner has asserted that the 2018-19 IEP developed and implemented by Respondent failed to provide a FAPE to Petitioner. The IDEA requires states like Texas which receive federal funding to make a FAPE available to all students with disabilities residing in the state. 20 U.S.C. § 1412(a)(1)(A); *Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230, 232 (2009).

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<sup>39</sup> Tr. at 59-60.

<sup>40</sup> Tr. at 153.

<sup>41</sup> JE 4 at 1; Tr. at 304.

<sup>42</sup> JE 5 at 1; Tr. at 305.

<sup>43</sup> 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).



In order for a student to receive a FAPE, a school district must provide the student an educational program reasonably calculated to enable the student to make progress appropriate in light of the student's circumstances. *Andrew F. v. Douglas Cty. Sch. Dist.*, 137 S.Ct. 983, 1001 (2017). The student's progress must be something more than mere *de minimis* progress. *Id.*, at 1000.

The Fifth Circuit has articulated a four-factor test to determine whether a school district's program meets IDEA requirements. Even after the Supreme Court's decision in *Andrew 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. by E.R. v. Spring Branch Indep. Sch. Dist.*, 909 F.3d 754, 765 (5th Cir. 2018). Those factors are:

- Whether the program is individualized on the basis of the student's assessments and performance;
- Whether the program is administered in the LRE;
- Whether the services are provided in a coordinated, collaborative manner by the "key" stakeholders; and,
- Whether positive academic and non-academic benefits are demonstrated.

*Cypress-Fairbanks Ind. Sch. Dist. v. Michael F.*, 118 F. 3d 245, 253 (5th Cir. 1997).

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 Ind. Sch. Dist. v. Leah Z.*, 580 F. 3d 286, 294 (5th Cir. 2009). Application of the four factors to the evidence in this case supports the conclusion that the school district's program was appropriate.

**1. Whether the Program Is Individualized on the basis of assessment and performance**

A program is sufficiently individualized when multiple assessments are conducted of the student, the ARD committee considers these assessments along with parent and teacher input in developing the student's IEP, accommodations and modifications are made based on the student's test performance and parent input, and the IEP goals are revised based on new assessment data. *Candi M. v. Riesel Indep. Sch. Dist.*, 379 F.Supp.3d 570, 597 (W.D. Tex. 2019).

The District conducted a timely reevaluation of Student in May 2017. The District also conducted a counseling assessment for Student before commencing counseling services. The District convened regular ARD Committee meetings, where it took into account parent and teacher input. It tried to convene additional ARD Committee meetings in the spring of 2019, but Student's parents were not available.

Petitioner did not present sufficient evidence that Student's needs changed significantly at any point since the most recent evaluation was conducted to warrant a new evaluation or change to the IEP. Petitioner also conceded Student benefited academically from Student's program. The District implemented the recommendations from the 2017 reevaluation. Therefore, Petitioner did not meet its burden of proof as to this *Michael F.* factor.

**2. Least Restrictive Environment**

Second, the District's program was delivered in the LRE. The IDEA requires that students with disabilities be educated in general education settings with students without disabilities to the maximum extent appropriate. The IDEA has a strong preference in favor of educating students with disabilities in general education settings with their peers who do not have disabilities. *Bd. of Educ. of the Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. at 176, 188-89 (1982). However, if a school district cannot satisfactorily educate a student with a disability in the general education setting, then the school district may remove the student from the general education setting and place them in special education classes. 20 U.S.C. § 1412(a)(5); 34 C.F.R.

§ 300.114(a)(1)(2)(i-ii). This requirement of the IDEA is referred to as a school district's obligation to educate a student in the LRE. *Id.*; *Daniel R.R. v. State Bd. of Educ.*, 874 F.2d 1036, 1048 (5th Cir. 1989).

To determine whether a school district is educating a student with a disability in the LRE, a hearing officer must consider:

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

*Daniel R.R.*, 874 F. 2d at 1048.

In the case of \*\*\* student \*\*\*, a hearing officer's LRE determination should also take into account the student's ability to communicate with Student's peers \*\*\*. *E.G. v. Northside Indep. Sch. Dist.*, 2014 W.L. 12537177, \*20 (W.D. Tex. 2014); *S.F. v. McKinney Indep. Sch. Dist.*, 2012 W.L. 718589, \*13 (N.D. Tex. 2012). If practicable, a \*\*\* student should have an education in the company of a sufficient number of peers \*\*\* with whom the student can communicate directly. \*\*\*. \*\*\*.

In this case, Student was educated entirely in mainstream, general education classes at a \*\*\* school Student chose. \*\*\* was comprised of peers who were intelligent and motivated like Student. Student thrived academically in that environment, as Student \*\*\*self has acknowledged. A \*\*\* student's parents and advocates must have the opportunity to participate in determining the content of Student's education program. \*\*\*. In this case, the program Petitioner chose was in an environment without other students \*\*\*.

Petitioner contends the environment was not Petitioner's LRE, because Petitioner did not have an opportunity through the District to interact with peers who were \*\*\*.<sup>44</sup> However, despite

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<sup>44</sup> PCA at 19.

the provisions of the Texas Education Code cited above, the IDEA does not make an exception for students \*\*\* to the requirement that students be educated with non-disabled peers to the maximum extent appropriate. *Barron ex rel. D.B. v. South Dakota Bd. of Regents*, 655 F.3d 787, 794 (8th Cir. 2011). Under the two-prong *Daniel R.R.* standard, Student should be educated in a general education setting with appropriate accommodations. *Daniel R.R.*, 874 F.2d at 1048.

Petitioner chose an environment without peers who \*\*\*, an environment where Student had also spent the 2017-18 school year. Petitioner acknowledges Student benefited academically from that environment. Student had \*\*\* provided by the District who helped Student access academic and non-academic school activities. Student had a role model \*\*\*, Student's counselor, with whom Student could discuss Student's future and Student's goals. *See E.G.*, 2014 W.L. at 21. Petitioner did not present evidence of a "practicable" way of providing Student education in Student's chosen LRE and also providing Student access to peers \*\*\*, the majority of whom were at \*\*\* nearly ten miles away from \*\*\*. \*\*\*. Student's setting during the 2018-19 school year was Student's LRE.

### **3. Whether Services Were Provided in a Collaborative Manner**

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

In this case, Student's parents were included in decisions. The District held its annual ARD meeting in May 2018. Student's parents were present, provided input, and agreed with the ARD

committee's decision. In the fall of 2018, when Student requested \*\*\* so Student could \*\*\*, the ARD Committee met to amend the IEP so Student could have \*\*\*. The District then attempted to set two ARD meetings at Student's parents' request in the spring of 2019 after Student's experience with \*\*\*, but it could not secure Student's parents' participation. The District based its program on the input of an appropriate number of stakeholders.

#### **4. Academic and Non-Academic Benefit**

Fourth, Student received both academic and non-academic benefit from Student's program. Petitioner conceded that Student received academic benefit from the District's program and the District fulfilled its obligations to Student academically.

Non-academically, Student was able to participate \*\*\* with the help of Student's \*\*\*. Student also was able to \*\*\*. \*\*\*.

It cannot be easy to \*\*\*. It is to Student's immense credit that Student has handled the responsibility so well and served as an example for other students.

#### **5. Conclusion**

Student received an education based on assessment and input from key stakeholders in Student's LRE and derived both academic and non-academic benefit from it. Therefore, the District did provide Student a FAPE. *See Michael F.*, 118 F.3d at 253.

#### **C. Services from a \*\*\***

Petitioner alleged the District failed to provide Student \*\*\*, as it was required to under the IDEA and in the IEP. Student's IEP provided 60 minutes per year of indirect consultation from \*\*\*. The District provided that through "itinerant support." Petitioner did not present sufficient evidence more was required by law or by the circumstances. Student thrived academically, as Petitioner conceded, and Student's \*\*\* were able to help Student access both academic and non-

academic activities. The IDEA does not require direct instruction from \*\*\*. Petitioner failed to present evidence that Student required direct services from a \*\*\*, particularly since Petitioner conceded Student received academic benefit from Student's program.

**D.** \*\*\*

School districts must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. 34 C.F.R. § 300.117. The school district must ensure that each child with a disability has the supplementary aids and services determined by the child's ARD Committee to be appropriate and necessary for the child to participate in nonacademic settings. *Id.* A student does not need to be provided every opportunity the student's peers without disabilities are provided. Extracurricular activities are required under the IDEA to the extent they are required to confer educational benefit to a student. *Rettig v. Kent City Sch. Dist.*, 788 F.2d 328, 332 (6th Cir. 1986).

The ARD Committee was not aware Student would require \*\*\* during the May 2018 ARD meeting. That need arose during the fall of 2018. The ARD Committee convened and approved \*\*\* in November 2018 after the need arose. Student began using \*\*\* in January 2019 and even participated \*\*\* in the spring. Throughout that time, Student was participating \*\*\*. Student also participated in other extracurricular activities—\*\*\*—with the assistance of \*\*\* provided by the District.

The ARD Committee adjusted Student's IEP once it knew of the need to do so. Even if it had not, Student was still able to participate \*\*\* and other \*\*\* without the use of \*\*\* "to the extent required to confer educational benefit," a fact conceded by Petitioner. *See Rettig*, 788 F.2d at 332. Thus, the District fulfilled its responsibilities in regard to the \*\*\* specifically and \*\*\* more generally.

**E.** \*\*\*

\*\*\*. \*\*\*. Therefore, Petitioner did not meet Petitioner's burden as to this issue.

**F. Use of \*\*\* for transportation**

While Student received both academic and non-academic benefit from the District, the District should provide \*\*\* during transportation services it provides. A hearing officer cannot predicate a finding of a denial of FAPE on the safety of the student unless the risk to the safety of the student resulted in a denial of FAPE. *J.N. v. Pittsburgh City Sch. Dist.*, 536 F.Supp.2d 564, 577 (W.D. Pa. 2008). In this case, Student received a FAPE from the District despite the risk to Student's safety of not having access to \*\*\* on the bus.

However, \*\*\* was foreseeable and could likely happen again. It was equally foreseeable that Student would feel scared during a time where Student is unaware what is happening. Student requires access to \*\*\* during those times. That accommodation should be added to Student's IEP.

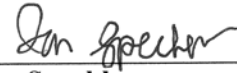
### VIII. CONCLUSIONS OF LAW

1. Respondent provided Student with a FAPE within the meaning of the IDEA. *Andrew F.*, 137 S.Ct. at 1001; *Michael F.*, 118 F.3d at 253.
2. Student's placement was Student's LRE. *Daniel R.R.*, 874 F.2d at 1048.
3. Student had an opportunity to participate in extracurricular activities, \*\*\*, to the extent appropriate with the use of supplementary aids and services. 34 C.F.R. § 300.117.

### IX. ORDERS

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

**SIGNED October 14, 2019.**



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**Ian Spechler**  
**Special Education Hearing Officer**  
**For the State of Texas**

### **X. NOTICE TO PARTIES**

The Decision of the Hearing Officer is a final and appealable order. Any party aggrieved by the findings and decisions 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. 20. U.S.C. § 1415(i)(2); 19 Tex. Admin. Code Sec. 89.1185(n).