

**IMPARTIAL DUE PROCESS HEARING
BEFORE THE HEARING OFFICER
APPOINTED BY THE STATE SUPERINTENDENT OF PUBLIC SCHOOLS
STATE OF NEVADA**

**DECISION AND ORDER OF THE
HEARING OFFICER**

In the Matter of

Decision Date: December 19, 2022.

STUDENT, ¹ by and through their Parent,

Hearing Officer:

Petitioner,

Kevin P. Ryan, Esq.

v.

SCHOOL DISTRICT,

Parties and Representatives:

Respondent

Student's parents appeared on behalf of
Petitioner.

Yasnai Rodriguez-Zaman, Esq., appeared on
behalf of Respondent.

I.

INTRODUCTION

1. The parties to the present action are Petitioner and Respondent, School District. Petitioner appeared in pro se by and through their parents. Respondent is represented by Yasnai Rodriguez-Zaman, Esq. The presiding hearing officer is Kevin P. Ryan, Esq. ("IHO").

2. Petitioner's Request for Due Process Hearing was received by Respondent on July 12, 2022. The IHO was appointed to the matter on July 15, 2022.

3. On July 15, 2022, the IHO entered the Preliminary Order.

4. Respondent's Response to Due Process Hearing Request was filed on August 2,

¹ Personally identifiable information is attached as Appendix A to this decision and must be removed prior to public distribution.

2022.

5. On August 22, 2022, the IHO entered the Amended Preliminary Order.
6. On August 29, 2022, a telephonic Status Conference occurred. A Status Conference Report and Order was entered the same day.
7. On September 12, 2022, a second Status Conference occurred. A Status Conference Report and Order was entered the same day.
8. On September 23, 2022, a third Status Conference occurred. A Status Conference Report and Order was entered the same day.
9. On September 23, 2022, Petitioner filed an Amended Request for Due Process Hearing (“RDP”).
10. The Order Setting Status Conference was entered on September 26, 2022.
11. Respondent filed its Notice and Response to Amended Request for Due Process on September 29, 2022.
12. On October 10, 2022, a telephonic Status Conference took place. A Status Conference Report and Order was entered the same day.
13. On October 10, 2022, the Notice of Pre-Hearing Conference was entered.
14. On November 1, 2022, the Pre-Hearing Conference was held.
15. On November 3, 2022, the Pre-Hearing Conference Report and Order was entered.
16. On November 18, 2022, the IHO received Petitioner’s and Respondent’s witness lists and hearing exhibits.
17. The 3 day hearing in this matter was held on November 29, 2022, November 30, 2022, and December 1, 2022. Pursuant to a stipulation between the parties, the hearing was held via electronic audio / visual means (“Zoom”). As set forth in the November 3, 2022, Pre-Hearing

Conference Report and Order, Student's Parents opted for a closed hearing and elected to be provided with a written decision and written hearing record. The due process hearing was held, and a decision in this matter is being rendered, pursuant to the Individuals with Disabilities Education Act (hereinafter, "IDEA"), 20 U.S.C. § 1400 et seq., and its implementing regulations, 34 C.F.R. § 300 et seq., the Nevada Revised Statutes (NRS), Chapter 388, and the Nevada Administrative Code (NAC), Chapter 388.

II.

BACKGROUND PRELIMINARY MATTERS

Based upon Petitioner's July 12, 2022, Request for Due Process Hearing, the initial decision deadline was September 25, 2022.

On August 29, 2022, and based upon information offered at the Status Conference, the decision deadline was extended to October 26, 2022. As set forth in the August 29, 2022, Status Conference Report and Order, "good cause" was found to exist to continue the decision deadline. The facts supporting a finding of "good cause" included: (1) Student remains enrolled at High School and there were no pending disciplinary issues with regard to Student; (2) Student's Parent's only recently received the results from Student's Independent Educational Evaluation ("IEE"); (3) Student's Individual Education Plan ("IEP") team was scheduled to meet on September 2, 2022, to consider Student's IEE results; and, (4) Student's Parents had notice of the IEP meeting and planned to attend same. Based upon the foregoing, the initial Pre-Hearing Conference and Hearing were not scheduled at the August 29, 2022, Status Conference.

On September 12, 2022, the second Status Conference occurred. The aforementioned IEP team meeting had occurred and a subsequent meeting of the IEP team was scheduled for September 13, 2022. As set forth in the September 12, 2022, Status Conference Report and

Order, based upon the upcoming IEP team meeting and the agreement of the parties, a third telephonic Status Conference was scheduled.

On September 23, 2022, a third Status Conference occurred. As set forth in the corresponding Status Conference Report and Order, although the IEP team met as set forth above, no agreement regarding the terms of Student's IEP was reached by the IEP team. In addition, at this Status Conference, Student's Parents expressed their desire to file an Amended Request for Due Process Hearing. Respondent had no objection to the amended filing.

The RDP was filed on September 23, 2022. Based upon the filing of same, the new decision deadline was December 7, 2022. This decision deadline is set forth in the September 26, 2022, Order Setting Status Conference.

Pursuant to the October 10, 2022, Status Conference Report and Order, and based upon a finding of "good cause", the decision deadline was extended to December 19, 2022. At this Status Conference the parties and the IHO acknowledged that they were entering into the busy holiday season, and that there were calendar conflicts for both parties and the IHO. Based upon same, the parties agreed that the decision deadline should be extended, and the IHO found "good cause" existed for the extension. In addition, and based upon agreement of the parties, they set their 3 day hearing to commence on November 29, 2022, and conclude on December 1, 2022.

On November 3, 2022, the Pre-Hearing Conference Report and Order was issued. As set forth therein, at the Pre-Hearing Conference ("PHC") the IHO attempted to define and narrow the issue(s) raised by Petitioner in the RDP. In this Order the IHO recounted that at the most recent IEP team meeting, the entire IEP team including Student's Parents agreed to the supports and services proposed by High School's staff. In fact, Student's Parents indicated in the RDP that the "staff came up with amazing accommodations" for Student. However, Student's Parents did not

agree with the proposed placement. Based upon these facts, the IHO was tasked with ruling on a single issue at the parties' Due Process Hearing. The November 3, 2022, Pre-Hearing Conference Report and Order also provides that if either party believed that the IHO misstated any item in the Order, they were to contact the IHO within 3 business days. After receiving same, neither party contacted the IHO about the content of the Pre-Hearing Conference Report and Order.

III.

HEARING ISSUES

As set forth in the November 3, 2022, Pre-Hearing Conference Report and Order, the single issue to be decided by the IHO at the due process hearing is:

1. Can the September, 2022,² IEP be satisfactorily implemented with supplementary aids and services in the regular educational environment at [High School]? If not, what is the least restrictive environment ("LRE") for student?

Based upon the information obtained by the IHO at the Pre-Hearing Conference, Petitioners requested that Student receive their education, with necessary supplementary aids and services, in a regular classroom environment at High School.

IV.

FINDINGS OF FACT

After considering all the evidence, this Hearing Officer's Findings of Fact are as follows:

1. Student is in the 11th grade at High School. (EX D-5) High School is the institution where Student would attend if Student was non-disabled. Thus far, Student has earned 3.5 credits towards graduation. (EX D-5) In order to graduate, Student needs a total of 24 credits.

² This IEP is dated September 13, 2022.

(EX D-5) In Q1 of Student's current high school year, Student has an "F" in every class. (EX D-5) Student's records demonstrate that throughout high school Student has had significant absences and has been tardy numerous times. (EX D-5)

2. Student's Summary Report for Q1 of Student's 11th grade school year indicates that almost all of Student's "citizenship" marks are "satisfactory". The same document indicates that Student failed every class in Q1, and is failing all but one class in Q2. (EX P-32)

3. Student's current placement is primarily in a general education setting, with 1 resource class where extra help is provided in a smaller class environment. (Witness 5³)

4. When Student attends class, Student is quiet, keeps to himself and does not disrupt the class. (Witness 7⁴; Witness 6⁵) When prompted and given 1 on 1 instruction, Student will acknowledge teachers and will do the work so long as the teacher is with Student. When left alone, Student stops working and refuses to stay on task. Attempting to focus primarily on Student to get him to do his work in a class of 35 students takes away the teacher's ability to assist other students. (Witness 7)

5. Student's teachers and administrators agree, one of the reasons Student is not successful is because Student refuses to do school work and turn in missing assignments. (Witness 5; Witness 6)

3 Witness 5 is the Special Education Instructional Facilitator at High School.

⁴Witness 7 is Student's Science Teacher at High School.

⁵Witness 6 is a Special Education Teacher at High School.

6. Student has a documented history of behavior problems at High School.⁶ The evidence includes a Behavior Intervention Plan (“BIP”) dated February 14, 2022, that referenced Student’s defying school rules and overall defiance. (EX D-21) In addition a second BIP, dated March 4, 2022, was also implemented for Student as a result of risky behavior and ignoring consequences. (EX D-22) Neither BIP was successful; Student’s behavior issues continued after BIP implementations. (Witness 5)

7. In almost every instance where there is a behavior problem, Student’s Parents are contacted. The contacts to parents are evidenced by Student’s “Contact Log”. (EX D-10) Regarding the contact with Student’s Parents about Student, Student’s Parents were “appropriately concerned regarding Student’s behavior.” (Witness 1)⁷

8. By March 31, 2022, Student had exceeded the 10 per year allowance for behavior issues. (Witness 5) After this allowance had been exceeded, Student continued to violate school rules. On March 31, 2022, a Notice of Intent to Implement IEP and Manifestation Determination were prepared regarding Student. The alleged infractions included, insubordination, failure to follow rules, failure to participate, leaving class without permission. (EX D-18) On May 2, 2022, a Notice of Intent to Implement IEP and Manifestation Determination were prepared regarding Student. The alleged infractions included, attending the wrong class and running from campus security. (EX D-19) On May 23, 2022, a Notice of Intent to Implement IEP and

⁶Student has a history of truancy, school code violations, code of conduct violations, an instance of admitted use of a controlled substance, use of foul language, sexually explicit comments, an explicit outburst, Student punches walls and also damaged school property including a soap dispenser and on one occasion punched a fire extinguisher and broke the safety glass. Student also recently punched a vending machine located on school property. (EX D-4) Student’s “Behavior Report” details when Student has been suspended, both in-house and off campus. (EX D-4) (Witness 1)

⁷Witness 1 is an Assistant Principal at High School.

Manifestation Determination were prepared regarding Student. The alleged infractions included, walking out of class, using profanity regarding a school administrator, running away from campus security, destroying school property, and returning to campus twice while suspended. (EX D-20) After each Notice / Manifestation additional services were provided for Student (Witness 5) Following the May 23, 2022, incident, High School sought to place Student in a behavioral school. (Witness 5) Student's Parents requested that High School not move forward until after Student underwent a Psychological Evaluation. (Witness 5)

9. On April 29, 2022, May 2, 2022, and July 12, 2022, Student was evaluated by Evaluation Center which is an independent evaluation center, not associated with School District. Evaluation Center prepared an undated Psychological Evaluation regarding Student. (EX D-29)⁸ According to the Evaluation, Student's "Principal Diagnosis" included Autism Spectrum Disorder, Attention Deficit / Hyperactivity Disorder and Disruptive Mood Dysregulation Disorder. (EX D-29) Of relevance, one of Student's parents reported the following with regard to Student, "shows no emotion other than anger, engages in disruptive, impulsive and uncontrolled behaviors, displays a high degree of aggressive behaviors, frequently engages in rule breaking behavior such as cheating, deception and/or stealing, does not seem to care if Student lives or dies, appears to live in Student's own world where the world does not seem real, engages in violent behaviors." (EX D-29) Regarding educational recommendations Evaluation Center suggested that the results be integrated into Student's IEP. The evaluation suggested interventions to improve math achievement, socialization and social skills, attention, and emotion dysregulation "as it impacts academic functioning." (EX D-29) The Psychological

⁸Exhibits D-29 and D-31 are the same document. However, D-31 was redacted by Student's Parents.

Evaluation was considered by Student's IEP team with regard to the September 13, 2022, IEP.
(Witness 5)

10. On August 28, 2022, Student was admitted to Treatment Center. Treatment Center provides crisis stabilization and substance abuse services. According to the records, it appears that Student was placed at Treatment Center by Student's Parents and that one reason for Student's admission was "anger issues". (EX D-23) Student was discharged from Treatment Center on September 2, 2022. According to the Discharge Medication Summary, Student was prescribed Methylphenidol and Risperidone. (EX D-23) A low fat diet was also recommended. In addition, the Treatment Center records provide under the heading "Safety Concerns" , "no weapons, lethal medications or other lethal means of self harm present in patient's home."⁹ Treatment Center did not make any educational recommendations for Student. (EX D-23)

11. After Student's discharge from Treatment Center, a Safety Plan was developed and implemented by School District on September 8, 2022. (EX D-25) Pursuant to same, Student was to see a counselor one time per month. (EX D-25) Presently, Student attends private therapy 3 days each week for 3 hours at a time. (Student's Father)

⁹Witness 2 testified about an incident in June, 2021, where an anonymous tip was called into High School whereby Student allegedly researched school shootings and the mistakes shooters made, and also was actively attempting to purchase a firearm or break into Student's Parent's gun safe. When confronted with the information Student admitted to some of the alleged behavior. However, Student indicated that Student had no reason to want to harm anyone at the school and denied any suicidal ideation or behavior. In addition, School District's crisis response team concluded that, "there did not appear to be any intent to harm or kill anyone and no evidence of targeted violence potential." (EX D-9) Student's Mother also testified that she believed this threat was called into High School by Student's former girlfriend who threatened to ruin Student's life. Based upon the foregoing, the IHO did not give this evidence and testimony much weight.

12. Based upon Student's outbursts, behavior issues, destruction of school property, and the content of the Psychological Evaluation, some of Student's teachers and administrators at High School are fearful of him. (Witness 6; Witness 5; Witness 2)¹⁰ In addition, regarding one behavior incident in 2022 in which Student was very combative, other students who were present claimed they felt unsafe. (Witness 1)

13. Regarding Student's September 13, 2022, IEP, after considering less restrictive placements, the IEP team determined that Student's proper placement is "Self-contained program." (EX P-40) The IEP team included among others a school psychologist, a special education teacher and Student's Parents. (EX P-40) The IEP team's placement decision is supported by the entries in the "Present Levels of Academic Achievement and Functional Performance" ("PLOPS") section of the IEP. (EX P-40) This IEP cannot be implemented in Student's current placement. (Witness 5) This IEP details why the goals and objectives cannot be implemented in a regular classroom environment and why the team rejected a less restrictive placement. According to this document, "Student will spend 0 % of their school day in the regular educational environment." (EX P-40)

14. A self-contained placement is likely to help with Student's tardy and elopement issues. The Star Program at High School is a self-contained placement. In the Star Program there are no transfers between classes. (Witness 5)

15. Student has a better chance of being more academically successful in the Star Program because it has a maximum of 10 students with one teacher and 1 full time aide, there is 1 on 1 instruction, and Student will have teachers who are trained in social and emotional issues.

¹⁰Witness 2 is an Assistant Principal at High School.

(Witness 5; Witness 6) In addition, in the program Student will have a better ability to cure credit deficiencies because of more concentrated assistance from a specific teacher who can spend more time with Student; unlike when Student is in a larger classroom setting. (Witness 5; Witness 6)

16. The Star Program allows for Student to attend lunch with the general education population and Student will have the ability to earn electives, including for instance a physical education class where Student would be in a general education setting. (Witness 5)

17. In early November, 2022, Student showed improvement at school.¹¹ Student completed certain academic tasks, stayed on track and demonstrated reading and comprehensive skills. (EX P-46) (Witness 7) Despite these recent improvements, Student has not been successful in large, general education classes. (Witness 7) According to one witness, Student is smart, has good academic skills and lots of potential. (Witness 4)¹²

18. Student's parents are not wholly opposed to placing Student in the Star Program, but request additional data be collected regarding Student before a change in placement. (Student's Mother) Thus far, the array of IEP supports and services provided to Student have not worked.

19. On November 11, 2022, a Multidisciplinary Evaluation Team Report ("MDT") was prepared with regard to Student. Student's Psychological Evaluation was reviewed as a part of this evaluation, and there was input from among others, Student's parent, High School's psychologist, special education teacher and a general education teacher. (EX D-30) Pursuant to the MDT, Student qualifies for special education services under the categories Emotional

¹¹ Recently Student has been more present and not as combative. Student is working on behavior and in the last few months an administrator noticed "glimmers of light" although Student is not catching up in his current educational environment. (Witness 1)

¹²Witness 4 is the Coordinator for School Psychological Services at High School.

Disturbance and Health Impairment. Student's Parents were aware of the MDT and they agreed with the eligibility findings that did not include autism. (Witness 4) In the report summary, it was concluded that Student has the potential to be successful in Student's educational career, but Student also has difficulty attending classes and remaining on campus. In addition, Student's behavioral records indicate that Student has difficulties with insubordination, profanity, vandalism, aggression and threats of aggression. The evaluation further concluded that certain of Student's test deficiencies may be related to distressed emotional functioning. (EX D-30)

V.

CONCLUSIONS OF LAW AND DISCUSSION

Based upon the above Findings of Fact, the Conclusions of Law of this Hearing Officer are as follows:

1. NRS 388.467 provides that whenever a due process hearing is held pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq. ("IDEA"), and a school district is a party, the school district has the burden of proof and the burden of production.

The School District has met its burden of proof and its burden of production.

2. Regarding the term "educational placement", "[b]ased on Supreme Court case law, congress's express intent in the statute, the agency's implementing regulations, and sister circuits' decisions, we hold that "educational placement" means the general educational program of the student. More specifically we conclude that under the IDEA a change in educational placement relates to whether the student is moved from one type of program – i.e., regular class – to another type – i.e., home instruction. A change in the educational placement can also result when there is

a significant change in the student's program even if the student remains in the same setting. This determination is made in light of Congress's intent to prevent the singling out of disabled children and to "mainstream" them with non-disabled children." *N.D. et al. v. State of Hawaii Department of Education*, 600 F.3d 1104, 54 IDELR 111 (9th Cir. 2010).

3. To the maximum extent appropriate, a child with a disability must be educated with children who are not disabled and in the least restrictive environment (LRE). (20 U.S.C. 1412(a)(5)(A); 34 C.F.R. § 300.114(a)(2).) When determining which placement is the LRE, consideration is given to any potential harmful effect on the child or on the quality of services he or she needs. (34 C.F.R. § 300.116(d).) Further, when faced with a placement decision a school district must consider: (1) the educational benefits of placement full-time in a regular class; (2) the non-academic benefits of such placement; (3) the effect the child would have on the teacher and children in the regular class; and, (4) the cost of main streaming the child. *Sacramento City Unified School District v. Rachel H.*, 14 F.3d 1398, 20 IDELR 812 (9th Cir. 1994).

4. A child with a disability should be removed from the regular educational environment only when the nature or severity of the disability of the child is such that the education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. *Sacramento City Unified School District v. Rachel H.*, 14 F.3d 1398, 20 IDELR 812 (9th Cir. 1994). If a student's educational placement does not confer a "meaningful benefit" to the student and a more restrictive program is likely to do so, the child is entitled to be placed in that more restrictive program. *P v. Newington Board of Education*, 51 IDELR 2 (2nd Cir. 2008); (See also *Hartmann v. Loudoun County Board of Education*, 26 IDELR 167 (4th Cir. 1997)).

5. A school district, by law, is required to consider the proper placement for students to receive special education and related services. Pursuant to 34 C.F.R. § 300.115, "[e]ach public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services." 34 C.F.R. § 300.115(a). The continuum required must "(1) [i]nclude the alternative placements listed in the definition of special education under § 300.39 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and (2) [m]ake provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement." 34 C.F.R. § 300.115(b).

6. In the case *Ryan K. v. Puyallup School District*, 25 F.3d 1396, 21IDELR 664 (9th Cir. 1994), after considering the *Rachel H.*¹³ factors, the appellate court determined that a self-contained program was the least restrictive environment for a student with a disability. The underlying facts indicated that the student was not benefitting academically in the mainstream placement as evidenced by the student's lack of achievement, the school district had offered student supplementary aids and accommodations without success, the student's non-academic benefits were minimal in that he did not model his behavior on non-disabled peers, and the student remained socially isolated. In addition, there was evidence of student's negative effect on other students which included attacks on 2 peers, assault on a staff member, and class disruption by use of profanity and sexually explicit remarks. Finally, the court determined that the cost considerations of hiring an aid were not relevant in light of the determination that this service would not benefit the student.

¹³ *Sacramento City Unified School District v. Rachel H.*, 14 F.3d 1398, 20 IDELR 812 (9th Cir. 1994).

Student's September 13, 2022, IEP cannot be satisfactorily implemented with supplementary aids and services in the regular educational environment at High School. The least restrictive environment ("LRE") for Student at this time is the Star Program at High School; a self-contained setting.

The evidence is overwhelming that Student has not been successful in Student's current placement. At this time Student is primarily in the general education setting with one small resource class where Student can get extra help. In Q1 of the current year, Student failed every class. In Q2 of the current year, Student is on the same course. Thus far in High School, as a junior, Student has earned 3.5 of the necessary 24 credits to graduate. Student chooses not to do the required school work, despite having the academic ability to complete it.

In addition, Student's school records are replete with behavior incidents including truancy, use of foul and sexually explicit language, insubordination, use of a controlled substance, and destruction of school property. Student consistently skips class, leaves class for lengthy periods of time, leaves campus or when in class listens to music on his phone and ignores instruction. Certain peers and faculty members are afraid of Student. Student has threatened a youth at another school. And, the information contained in Student's psychological evaluation, some of which was contributed by Student's Parents, is concerning. Student needs more help now.

Presently, Student is receiving no educational benefit in his current placement. Although there was limited evidence that recently Student had improved, completed some work, and was more present, the fact remains that Student is failing and the current placement is not working. There has been a complete lack of achievement despite the supplementary aids and

accommodations provided to Student.

Student is not receiving any non-academic benefits as a result of his current placement. Student does not interact with peers and remains socially isolated. Student does not consistently attend or remain in class and although Student is quiet and introverted when present, certain peers and educators are fearful of Student. Student has engaged in intense outbursts, insubordination, and acts of property destruction in front of other students whereby there has been a negative effect on Student's peers. In addition, one witness testified that attempting to keep Student on task and working while in class, takes away from their ability to teach the other students. Finally, Student has been provided with extra help in his resource class and was assigned an aide to assist with Student getting from class to class. In each instance, Student did not take advantage of these accommodations or intentionally "ditched" the aide. Therefore, the cost considerations of mainstreaming Student are not relevant.

Student's current placement has not conferred any meaningful educational benefit to Student. However, the Star Program may or is reasonably calculated to allow Student to receive academic and behavioral benefits. First, so long as Student shows up for school, there are no transitions from class to class in the Star Program. This lessens Student's ability to elope or skip class as a result of a transition. Second, the evidence indicates that when a teacher spends one on one time with Student, Student is more likely to complete his in class assignments. The Star Program has a maximum of 10 students with a full time teacher and a full time aide. Student will receive much more direct help with academics and will have a better chance of being given the opportunity to earn the necessary credits to graduate. In addition, the teachers in the Star Program are trained to deal with social, behavioral and emotional issues. Addressing these types

of issues can only help Student. It is more likely that Student will be successful and will receive a meaningful academic benefit in the Star Program. In addition, Student will have some opportunity to interact with non-disabled students.

Student's Parents have consistently taken an active and appropriate role in Student's life and have been interested in Student's education; they have tirelessly worked with High School to try and help Student. Regarding Student's behavior incidents, one High School administrator testified that Student's Parents always showed "appropriate concern." In addition, Student's Parents have provided Student with additional assistance outside of school including therapy 3 times per week. Moreover, Student's Parents have been an integral part of Student's IEP team. They want what is best for Student and they want Student to succeed. Student's Parents are not wholly opposed to Student's placement in the Star Program. Consistent with their ongoing participation in Student's academics, Student's Parents are entitled to consistent, written data from the Star Program teachers regarding Student's academic, behavioral and emotional progress. With this information, Student's Parents can continue to assist Student when not at school.

7. As set forth at 34 C.F.R. § 300.116 (c), the IDEA requires that unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if non-disabled.

In the present case, High School is the institution that Student would attend if non-disabled. In addition, High School provides the Star Program placement and the evidence indicated that there was room for Student in High School's Star Program. Student's September 2022, IEP shall be implemented at High School in the Star Program.

VI.

ORDER

Based upon the above Findings of Fact and Conclusions of Law and good cause appearing, it is hereby ordered:

1. Consistent with 34 C.F.R. § 300.116 (c), Student's September, 2022, IEP shall be implemented in the Star Program at High School until or unless the IEP team determines that a less restrictive placement is appropriate for Student as the least restrictive environment.

2. Commencing 14 days after Student is placed in the Star Program at High School, Student's teacher(s) in the Star Program shall provide Student's Parents with ongoing and updated written data regarding Student's academic, emotional and behavioral progress every 14 days.

VII.

NOTICE OF RIGHT TO APPEAL

Any party aggrieved by the hearing officer's decision may appeal it by filing with the Superintendent a notice of appeal which identifies the specific findings and conclusions being appealed and forwarding a copy of the notice of appeal to the other parties within 30 days after receiving the decision. A party to the hearing may file a cross appeal by filing a notice of cross appeal with the Superintendent which identifies the specific findings and conclusions being appealed and forwarding a copy of the notice of cross appeal to the other parties within 10 days after receiving notice of the initial appeal. If an appeal is filed, a state review officer appointed by the Superintendent from a list of officers maintained by the Department shall conduct an impartial review of the hearing. NAC 388.315(1).

DATED this 19th day of December, 2022.



Hearing Officer
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