

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

In the Matter of  
STUDENT<sup>1</sup>, by and through Parents  
Petitioners,

Date: February 10, 2026

v.  
SCHOOL DISTRICT

Hearing Officer

Respondent

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

This matter came for a hearing on January 29 and 30, 2026. The Respondent was represented by Counsel for the School District and the Parent was represented by Counsel for the Parent. Colleen Platt, Esq. served as the hearing officer (“Hearing Officer”) in this matter. The following Findings of Facts, Conclusions of Law and Decision are hereby rendered by the Hearing Officer.

**I. PROCEDURAL HISTORY**

A Due Process Complaint (“Complaint”) was filed by Counsel for the Parent on behalf of the Student on March 24, 2025. On March 27, 2025, this Hearing Officer issued the Preliminary Order and Notice of Status Conference. The School District filed its response to the Complaint on April 2, 2025. A Status Conference was held on April 7, 2025, wherein the parties indicated they had conducted a resolution meeting but had not reached a resolution. The School District indicated that one of the witnesses would be unavailable between May 24, 2025, and June 13, 2025. Counsel for Parents indicated that the Parents were concerned that they would miss the Student’s kindergarten graduation, however, because of the availability of the witnesses, a

<sup>1</sup> Personally identifiable information is attached as Appendix A to this Order and must be removed prior to public distribution.

hearing was scheduled for May 22, 23, and 29, 2025. A Status Conference was held on April 14, 2025, wherein Counsel for Parents requested a continuance of the decision date to accommodate the availability of the Parents and the witnesses. This Hearing Officer found good cause to continue the decision date and continued the decision date to July 7, 2025, and setting a hearing for June 12, 13, and 16, 2025.

A Pre-Hearing Conference Notice and draft issues for the hearing was issued on May 19, 2025. On May 29, 2025, a Pre-Hearing Conference was held and a Pre-Hearing Conference Report and Order was issued on May 30, 2025, setting forth two issues for the hearing and a hearing date of September 23 and 24, 2025, and a Status Conference for August 25, 2025. On August 25, 2025, a Status Conference was held wherein the hearing was discussed, specifically the issues previously set forth at the Pre-Hearing Conference on May 29, 2025. Counsel for Parent indicated that the change to the Student's location from her current school to a different school would require the Student to be transported by bus needed to be included in the issues. Counsel for the School District objected because the Complaint did not include language regarding bussing of the Student to a different school. Counsel for Parent requested leave to amend the Complaint and Counsel for the School District did not object. In the Status Conference Report and Order dated August 25, 2025, this Hearing Officer granted Counsel for Parent's request to amend the Complaint and required Counsel for Parent to amend the Complaint on or before September 12, 2025.

On September 12, 2025, Counsel for Parent filed an Amended Due Process Complaint ("Amended Complaint"). A Notice of Status Conference was issued on September 18, 2025. The School District filed its response to the Amended Complaint on September 22, 2025. On September 26, 2025, an Order was issued setting a Status Conference for October 2, 2025, and

confirming the decision date was November 26, 2025. A Status Conference was held on October 2, 2025. A Status Conference Report and Order was filed on October 2, 2025, setting another Status Conference for October 16, 2025, because the parties had not held a resolution meeting.

On October 16, 2026, a Status Conference was held wherein the parties indicating that they would not be available to conduct a hearing before the November 26, 2025, decision date. A Status Conference Report and Order was filed on October 16, 2025, wherein this Hearing Officer found good cause to extend the decision date to February 15, 2026, and scheduling a hearing for January 27, 29, and 30, 2026. On December 31, 2025, a Notice of Pre-Hearing Conference was filed. On January 8, 2026, a Pre-Hearing Conference was held wherein two issues to be decided at the hearing were set and confirming the hearing date of January 29 and 30, 2025, which was set forth in the January 9, 2026, Pre-Hearing Conference Report and Order.

On January 29 and 30, 2025, a hearing was held. The School District presented five witnesses: the Principal, Assistant Principal, Special Education Instruction Facilitator, Special Education Teacher, and General Education Teacher. The Petitioner presented nine witnesses: Mother, Father, Speech-Language Pathologist, Occupational Therapist, Aide, Music Teacher, Art Teacher, P.E. Teacher, and Special Education Consultant. The parties stipulated to the admission of Joint Exhibits 1 through 29, inclusive. The Petitioner admitted one exhibit (P-1).

## **II. ISSUE TO BE DECIDED**

At the Pre-Hearing Conference held on January 8, 2026, the following two issues were determined to be issues set forth in the Amended Complaint:

1. Is the decision by the School District to change the placement of the Student, beginning on March 4, 2025, from a general education/resource room placement to a self-contained classroom a failure to provide education services in the least restrictive environment?

2. Was the decision by the School District to change the placement of the Student, beginning on March 4, 2025, from a general education/resource room placement to a self-contained classroom predetermined?

### **III. FINDINGS OF FACT**

1. The Student is currently enrolled in Elementary School. For the 2024-2025 School Year, Student was in enrolled in kindergarten at the Elementary School. The Student began on August 20, 2025, and concluded on May 23, 2025. (Testimony of Mother, Special Education Teacher, Special Education Instructional Facilitator “SEIF”, Assistant Principal, General Education Teacher, Music Teacher, Art Teacher, Speech-Language Pathologist, Occupational Therapist, Joint Exhibit 2)
2. The Student is a sweet girl who loves to dance, sing, play, and hug. (Testimony of Mother, Special Education Teacher, General Education Teacher, Music Teacher, Principal, Assistant Principal)
3. The Student attended pre-kindergarten at the Elementary School for the 2022-2023 school year beginning on August 8, 2022, and concluding on May 22, 2023. (Testimony of Mother, Special Education Teacher, SEIF, Assistant Principal, General Education Teacher, Joint Exhibit 2)
4. The Student did not attend pre-kindergarten at the Elementary School at the beginning of the 2023-2024 school year because Mother had withdrawn Student from the Elementary School and enrolled the Student in private school. (Testimony of Mother, Special Education Teacher, SEIF, Assistant Principal, General Education Teacher, Joint Exhibit 2)

5. On March 18, 2024, the Mother reenrolled Student at the Elementary School in pre-kindergarten until the end of the school year on May 20, 2024. (Testimony of Mother, Joint Exhibit 2)
6. At a meeting at the end of the 2023-2024 school year, the Mother met with the Student's pre-kindergarten teachers and the SEIF to discuss transition to kindergarten and develop the Student's yearly Individualized Education Plan ("IEP"). The IEP placed the Student in a self-contained classroom for kindergarten. Parents filed a due process complaint, which was settled before the Student started kindergarten. (Testimony of Mother, SEIF)
7. As part of the settlement agreement the Student was assigned a 1:1 aide. (Testimony of SEIF, Joint Exhibit 4, p. 1)
8. The Student's current placement is in the general education program at the Elementary School and the Student also receives instruction in the resource room. In the general education classroom, the Student receives the standard general education lesson that the other students in the class receive. If the Student is unable or unwilling to do the general education classwork/lesson, the Student receives modified classwork/lesson. If the Student is unable or unwilling to do the modified work or is exhibiting refusal behaviors, the Student is offered a neutral task to assist the Student in resettling. (Testimony of Mother, Special Education Teacher, General Education Teacher, SEIF, Assistant Principal, Aide)
9. On August 28, 2024, an IEP meeting was held pursuant to the settlement agreement. Present at the meeting were: Mother, Special Education Teacher, General Education Teacher, Assistant Principal, LEA Representative, SEIF, Speech-Language Pathologist

(“SLP”), Occupational Therapist (“OT”), Special Education Director, Special Education Coordinator, Parent Advocate 1, Parent Advocate 2. (Joint Exhibit 4, p. 3-4)

10. At the August 28, 2024, IEP meeting the Mother deferred to Parent Advocate 1 and 2 to respond to questions regarding the Student’s present levels set forth in the IEP. Parent Advocate 1 and 2 did not have any questions regarding the Student’s present levels. The Mother had questions regarding the Student’s assistive communicative device (“Talker”), she stated that the Student would get frustrated and push it away when she tried to use it with the Student at home. The Mother indicated that Student preferred to use her words at home and requested training on the application. The SLP indicated that training could be scheduled for the Mother. When the team began discussing the section of the IEP regarding parent concerns, Parent Advocate 1 stated that the Mother’s concerns were not recorded correctly and Mother was allowed to email her concerns to the SEIF who would copy and paste those concerns into that section of the IEP. The meeting concluded without completing the IEP and a new date was scheduled for the team to reconvene. (Joint Exhibit 4, p. 3-4)

11. On August 29, 2024, an IEP meeting was held to continue the meeting from August 28, 2024. Present at the meeting were: Mother, Special Education Teacher, General Education Teacher, Assistant Principal, LEA Representative, SEIF, SLP, OT, Special Education Director, Special Education Coordinator, Parent Advocate 1, Parent Advocate 2. The Mother’s concerns were copied from an email she sent to the SEIF and recorded in the IEP. The Mother indicated she had no questions on the Student’s goals, Parent Advocate 2 indicated that they (Mother) agreed with the goals. During the discussion regarding the Student’s specially designed instruction (“SDI”), Parent Advocate 2

suggested that the “prereading” designation was changed to “reading” which was agreed to for reading, writing and math. The school team recommended that the Student receive 150 minutes of reading per week in a resource room, a pull-out service. Mother stated she wanted the Student to be 100% in a general education classroom. Parent Advocate explained what a resource room was and Mother agreed to the recommendation. For writing the school team recommended 150 minutes per week in a resource room. Mother wanted 75 minutes per week. The school team explained that they felt the Student would benefit from 150 minutes per week due to the Student’s present levels. Mother continued to request 75 minutes. The school team agreed to Mother’s request. For language, the school team recommended 150 minutes per week of pull-out services. The Mother requested no pull-out services. The school team explained that the Student’s language capabilities are inhibiting her from engaging with other students. The Mother referred to an article regarding the importance of inclusion she shared with the team previously and stated that the Student receives 30 minutes per week of speech services outside of school. The Mother and school team agreed to 100 minutes per week of language services as a push-out service. For social communication, the Mother requested 100% in a general education setting. The school team explained to the Mother that the Student’s language capabilities are causing the Student to be unable to initiate communication with her peers and suggested 150 minutes pull-out services. The Mother and the school team agreed to 100 minutes of pull-out services. For behavior, the Mother wanted 100% in general education. Parent Advocate 2 explained that for behavior goals and Behavior Intervention Plan (“BIP”) a quieter environment is better. The Mother stated that if the Student hits her, she explains to the Student that it was not nice. The school team explained that in

their experience the Student is not able to regroup quickly if she is hitting and kicking. She cries when the school team redirects her when she is exhibiting such behaviors. The school team explained that the Student's behavior is impacting the other students in the classroom and stressed that they believed the Student needed 150 minutes in pull-out services. The meeting concluded without completing the IEP. (Testimony of Mother, SEIF, Special Education Teacher, Joint Exhibit 4, p. 5-6)

12. The Mother and SEIF communicated regarding rescheduling the meeting. The Mother wanted the meeting to start at 8:00 am, which is when the school day starts for the student at the Elementary School. The SEIF explained that the administration of the Elementary School did not want to keep pulling the Special Education Teacher and General Education Teacher and other staff away from the students because it was disruptive to the students but that they could put a request for substitute teachers for that time and if the request was picked up and a substitute teacher was found, the meeting could occur at 8:00 am. (Joint Exhibit 4, p. 7)

13. On September 4, 2024, an IEP meeting was held to continue the development of the Student's IEP. Present at the meeting were: Mother, Special Education Teacher, General Education Teacher, Assistant Principal, LEA Representative, SEIF, SLP, OT, Special Education Director, Special Education Coordinator, Parent Advocate 1, Parent Advocate 2. The Parent Advocate 2 wanted to discuss the SDI minutes in the resource room/pull-out. The Mother felt that it was too much time being out of the general education classroom and that the Student would learn more if she was in the general education classroom. The school team believed that the Student would be more successful with the time in the resource room. The school team and the Mother eventually agreed to the

number of minutes the Student would spend in the resource room. The Student was placed in a general education classroom for 56% of the school day and the remaining time was in the resource room. The Mother agreed with the IEP as written. The September 4, 2024, IEP was implemented. (Joint Exhibit 4, p. 8-9, Joint Exhibit 5)

14. On October 1, 2024, the Mother emailed inquiring about the development of a Functional Behavioral Assessment (“FBA”) and a BIP and whether a 1:1 aide had been hired to assist the Student. The SEIF responded by email that the team would be working on the FBA and completing it before the due date of November 15, 2024, and the BIP would be due 10 school days after the completion of the FBA. (Joint Exhibit 4, p. 10)
15. On October 11, 2024, Special Education Teacher completed a Progress Report for the Student. In the Progress Report, the Student was making satisfactory progress towards her Early Communication and her Self-Help/Adaptive Goals. The Student was making unsatisfactory progress towards her Receptive Language, Prereading, Prewriting, Social Communication, and Behavior Goals. (Testimony of SEIF, Special Education Teacher, General Education Teacher, SLP, and OT, Joint Exhibit 6)
16. On October 16, 2024, the Mother emailed the SEIF requesting a meeting to revise the Student’s IEP to review the Student’s goals. (Joint Exhibit 4, p. 10)
17. On November 18, 2024, an informal meeting was held to discuss the Student’s BIP. The meeting went over the allotted time and the BIP was not finalized. The Mother had no questions on the FBA, but collectively the school team (LEA Representative, Special Education Teacher, General Education Teacher, and SEIF) and the Mother and Parent Advocates agreed to continue the meeting to the next day. (Joint Exhibit 4, p. 15)

18. On November 19, 2024, an IEP meeting was held to revise the Student's IEP. Present at the meeting were: Mother, Special Education Teacher, General Education Teacher, SEIF, LEA Representative, SLP, OT, Parent Advocate 1, Parent Advocate 2. The Student's IEP goals were revised to make the goals more achievable. Discussion was had regarding the FBA and BIP, but the development of the BIP was not finalized and the parties agreed to continue the discussion by email. (Testimony of Special Education Teacher, General Education Teacher, SEIF, Mother, Joint Exhibit 4, p. 15-16, Joint Exhibit 7)
19. On November 20, 2024, the SEIF emailed a draft BIP to the Mother and asked for her input. (Joint Exhibit 4, p. 18)
20. On November 26, 2024, the SEIF emailed the Mother regarding a draft BIP and asked for her input. (Joint Exhibit 4, p. 20)
21. On December 3, 2024, the SEIF and Special Education Teacher called the Mother to discuss the draft BIP. The Mother did not answer and message was left. The Mother emailed SEIF regarding the draft BIP stating that she would review the BIP the next day and respond then. (Joint Exhibit 4, p. 20)
22. On December 5, 2024, the SEIF emailed the Mother regarding draft FBA/BIP indicating the school team is ready to implement the BIP. The SEIF also called the Mother who told SEIF that she was sick with the flu. The SEIF indicated the BIP would be implemented as drafted. (Joint Exhibit 4, p. 21)
23. On December 9, 2024, the Mother emailed the SEIF asking for a meeting regarding the BIP. At a meeting later that day, the BIP was finalized. (Joint Exhibit 4, p. 21-24)
24. .On December 20, 2024, the Special Education Teacher completed a Progress Report for Student. The Student was making satisfactory progress towards her Early

Communication, Prereading, Pre-Math, and Self-Help/Adaptive Goals. The Student was making unsatisfactory progress towards both of her Behavior goals and her Prewriting, and Social Communication goals. The Progress Report does not report on the progress of the Student regarding her Receptive Language goal. (Testimony of SEIF, Special Education Teacher, SLP, Joint Exhibit 8)

25. On January 29, 2025, an IEP meeting was held as required by a prior settlement agreement. This IEP was to be developed ahead of the Student's annual IEP meeting in April, so this IEP would only be effective until that IEP was developed. Present at that meeting were: Mother, Special Education Teacher, General Education Teacher, Assistant Principal, LEA Representative, SEIF, SLP, OT, PE Teacher, Physical Therapist, Special Education Coordinator, Parent Advocate 1, Parent Advocate 2. The parties discussed the Student's Present Levels. The parties discussed a video that the Mother sent to the General Education teacher regarding the Student's session with a tutor where the Mother stated the Student was matching upper and lower case letters 80% of the time. The General Education Teacher said she had reviewed the video but that the Student was not getting the letters correct and the Student had to be prompted by the tutor. The General Education Teacher also stated that in the video when the Student did not get the correct letter the Mother would prompt the Student and the Student would select the other letter. In addition, the General Education Teacher stated that you could hear the Mother on the video verbally prompting the Student when she answered the question incorrectly. During the meeting the Mother stated that she wanted the Student to participate in the activities that the general education class is working on—she wanted the Student to try what the other students were doing and then modify the work if the Student was unsuccessful. The

parties discussed the Student's use of the Talker and it was recommended that the Student take the Talker home with her to use at home. The Mother stated that the Student uses a different communicative device with a different application and didn't think she would use the Talker at home. The school team explained that it would be beneficial to the Student to use the Talker at home so that the Student had consistency. The Mother still had not engaged in training on the Talker. The Mother didn't understand why the Elementary School could not use the application the Student used on the other communicative device. That IEP meeting went over the allotted time and a second meeting was scheduled. (Testimony of Mother, Special Education Teacher, SEIF, General Education Teacher, Assistant Principal, SLP, OT, Joint Exhibit 4, p. 29-32, Joint Exhibit 9)

26. On February 12, 2025, an IEP meeting was held to continue the development of the Student's IEP from the January 29, 2025, meeting. Present at the meeting were: Mother, Special Education Teacher, General Education Teacher, Assistant Principal, LEA Representative, SEIF, SLP, OT, Physical Therapist, Special Education Coordinator, Parent Advocate 1. The school team began discussing present levels for social/emotional/behavior, but the Mother indicated she had not reviewed the present levels and the school team allowed the Mother time to review the present levels. The school team discussed the difference between whole minute/partial minute on tasks, which the Mother found confusing. The school team reminded the Mother that the document was sent weeks ago. The Mother indicated the family was out of town. The school team included observations that the Student did not follow classroom or school rules, but the Mother stated that the Student followed the rules when the Student arrives

at school. The Mother provided the school team with information from the Student's outside providers, including speech, occupational therapy, and physical therapy who all reported that the Student is making growth with her behavior and academic skills. The school team opened the discussion regarding SDI for reading which began with the Special Education Teacher who suggested that the location of the SDI be a self-contained classroom. The Special Education Teacher indicated that because the Student is on a modified curriculum, has neutral tasks, and is working on a functional curriculum the Student does not have a lot of opportunity to engage with peers doing the same work. While the Student is included with whole group lessons, she is still working mostly on her own. The school team indicated that they have requested more focused support from a behavioral interventionist. The Parent Advocate 1 asked about an unidentified teacher's credentials, and who trained/supported the inclusive/modified lessons. The Special Education Coordinator reminded the parties that it was close to the scheduled end time of the meeting and a team member needed to leave directly at the scheduled end time due to an appointment, however, the Parent Advocate 1 continued to press the school team regarding the rest of the team's position regarding the recommendation that the location of the SDI for reading be in a self-contained classroom. (Testimony of Mother, Special Education Teacher, General Education Teacher, Assistant Principal, SLP, OT, Joint Exhibit 4, p. 35-37)

27. On February 21, 2025, a multidisciplinary team meeting ("MDT") was held. Present at the meeting were: Mother, Special Education Teacher, School Psychologist, Psychology Director, General Education Teacher, LEA Representative, Principal, Assistant Principal, SEIF, Special Education Coordinator, and Parent Advocate 1. Prior to this meeting, the

Student's eligibility category was Developmental Delay, but the Student would no longer be eligible for services under that category after her next birthday. The school team did not believe that the Student was eligible for services under the autism category and the school team discussed the reasons for their position. The school team discussed the eligibility category "intellectual disability" and the school team believed that because the Student is three standard deviations below the range, the Student qualified for services under the intellectual disability category in the moderate level and the school team believed Functional Academics to be the best academic program for the Student. The Student's benchmark assessments (MAP Growth) places the Student in the 4<sup>th</sup> percentile in reading for the Fall and Winter assessments, 6<sup>th</sup> percentile in math for the Fall assessment and 1<sup>st</sup> percentile in math for the Winter assessment. In the Kaufman Assessment Battery for Children, Second Edition, the Student scored in the lower extreme in each category (Sequential Processing, Learning, Simultaneous Processing). The Mother and Parent Advocate strongly disagreed with this decision that the Student qualified for services under the intellectual disability category in the moderate level. The LEA Representative informed the Mother that she could request an independent educational evaluation. The Mother also indicated that there were discrepancies in the document and she would send identification of those discrepancies for the school team to correct. The school team indicated that they would review her changes and determine if they are discrepancies and if they can be remedied. No testimony was offered regarding the interpretation of the data contained in the MDT report. (Joint Exhibit 4, p. 38-41, Joint Exhibit 20)

28. On March 4, 2025, an IEP meeting was held to complete the revision to the Student's IEP in accordance with a prior settlement agreement. Present at the meeting were: Mother, Special Education Teacher, General Education Teacher, Assistant Principal, LEA Representative, SEIF, Principal, Parent Advocate 1 and Parent Advocate 2. The school team began the discussion of the location of the SDI. The Special Education Teacher stated that for the general education classroom to be the least restrictive environment ("LRE") the Student must be able to participate and interact with peers, but the Student needed 1:1 assistance to interact and participate in the general education and even in the resource room. The Special Education Teacher continued, pointing out that despite the Student having the Aide, the Talker, and FBA, BIP, time in general education and resource room, accommodations and modifications, and neutral tasks the Student's education gap is continuing to grow and the Student is having a difficult time making progress on her IEP goals. The Special Education Teacher compared the Student's current status to that of when the Student was pre-kindergarten and in a self-contained classroom. The Special Education Teacher stated that the Student was making progress towards her IEP goals during that time and that a self-contained classroom would allow the Student to interact with her peers at her level. The General Education Teacher expressed similar concerns regarding the Student, stating that the Student needed more modifications than are being provided, is making little progress, and needs a functional education program. The Mother disagreed with a self-contained classroom and explained her reasons why. Though the Mother stated at the meeting she did not believe the Aide was necessary because the Student was too fast for her, in testimony, the Mother indicated that she meant that she needed a more agile 1:1 aide who could keep up with

her physically. The Mother stated she did not want the Student being moved to a different school and that the Student is benefiting from her current placement. The LEA Representative stated that they had seen the Student improve but not at a very high rate. The Parent Advocate 2 asked the school team what program they were recommending for the Student and the school team indicated that it was a Life Skills program. This IEP would be in effect and provide services from March 4, 2025, to April 18, 2025, presuming that the Student's annual IEP was developed in April 2025. The IEP provided that the Student's placement would be in a self-contained program with the Student spending 27% of her school day in the regular classroom. The November 19, 2024, IEP had the Student spending 56% of her school day in the regular classroom. The reasons the school team set forth for recommending the Student's placement in a self-contained classroom were because: (1) the Student required specialized instruction, modification of the curriculum, or accommodations in reading, writing, fine motor, language, communications, social communications, self-help/adaptive, organization, and behavioral skills; (2) the Student requires intensive instruction in all areas and the instruction has been modified to her instructional level which is below the grade-level and her peers and as such the Student needs a group of one; (3) the Student's instructional level is below grade-level, she is presented with grade-level work then modified work and then a neutral task, the Student's modifications cannot be met in the general education classroom because the Student is not academically benefiting from the general education environment; (4) the Student has made minimal growth on social/behavioral, observational learning and communication, gaining peers attention appropriately, communicating with peers and is unable to learn through observation; and (5) the

Student's need for a modified curriculum is below grade-level expectations and as such needs a functional approach to her instructional level. The Mother disagreed with the IEP. (Testimony of Mother, Special Education Teacher, SEIF, General Education Teacher, Principal, Assistant Principal, Joint Exhibit 4, p. 45-48, Joint Exhibit 7, p. 51, Joint Exhibit 9)

29. On March 5, 2025, the SEIF provided the Notice of Intent to Implement the IEP to the Parents. The Notice of Intent to Implement the IEP contained documentation that the School District refused Parent's request to have the Student in a general education/resource room placement because the school team felt that the current recommendations were still relevant given Parent input and continued to recommend a self-contained placement. (Testimony of SEIF, Joint Exhibit 9, p. 94-95)
30. On March 14, 2025, the Special Education Teacher prepared a Progress Report for the Student. While this Progress Report is dated after the March 4, 2025, IEP, it contains comments and observations from before the March 4, 2025, IEP. In the Progress Report, the Special Education Teacher indicated that the Student was making satisfactory progress towards 12 goals. On the first behavior goal, while the box is checked indicating that the Student is making satisfactory progress towards that goal, in the comment section, the Special Education Teacher indicates that the Student is inconsistent in remaining in her designated area but does stay in the designated area during her preferred activities. The comments went on to indicate that she was able to stay in her designated area two times on two separate dates but eloped from the classroom on another date. Some of the goals (Emotional/Behavior; Organizational Skills; Receptive Language) were added or revised at the March 4, 2025, IEP meeting and as such, there was not

sufficient data to demonstrate progress. The SEIF, who did not draft the Progress Report, testified that this Progress Report was written from an emotional state. She stated that the Mother is intimidating, having posted videos and comments on social media, denigrating the Elementary School and its staff. The SEIF stated that even though the Progress Report states that the Student was making satisfactory progress towards all her goals, she was not making satisfactory progress. (Testimony of Special Education Teacher, SEIF, Joint Exhibit 10, p. 1-4)

31. When the Student does not want to do a particular activity or tasks, the Student exhibits refusal behaviors such as screaming, rolling on the floor, hiding under a table, eloping from class, hitting, kicking, and spitting. These behaviors can last 63 minutes to 147 minutes as observed between September 18, 2024, and October 2, 2024. When she wants to get another student or teacher's attention, she will tap or hit the student/teacher on the shoulder and say "hey." (Testimony of Special Education Teacher, General Education Teacher, Assistant Principal, OT, SLP, Joint Exhibit 11)
32. The BIP provides that the Student will receive a break card and the Student can use it when she needs a break to resettle herself. The Student is not able to use the break card on her own and must be prompted by an adult to use the break card. (Testimony of Special Education Teacher, SEIF, Aide, Joint Exhibit 11)
33. A sticker/stamp/token system was implemented to encourage the Student to complete work and/or stay focused on the task at the first request. The system was somewhat successful for a period of time but lost its efficacy. (Testimony of Special Education Teacher, Aide, Joint Exhibit 11)

34. The BIP provided that the Special Education Teacher and teaching staff would collect daily duration and frequency data on the Student's protesting behaviors such as laying on the floor, saying "no," kicking, pushing, slapping, leaving the work area, or pushing work away. The data collected would be the Student's use of the break card and compliance data without protesting. The data would be collected 3 times per day for 10 minutes. The BIP was dated March 4, 2025. (Joint Exhibit 11)
35. The BIP contained in Joint Exhibit 11 is dated March 4, 2025, however, the data provided in Joint Exhibit 12 is dated from December 10, 2024, through December 20, 2024, January 2025 and February 2025. The data points from the March 4, 2025, BIP is part of the data that was collected from December 10 to December 20 along with some other data points. The Student was absent on December 16, 17, 18, 19, and 20. Of the 4 days that data was collected, the Student used her break card on December 11 and 13, 2024, and received one point out of a maximum of 6 points. The data collected on the number of protest behaviors for December 10 to 13, 2024, demonstrated that the Student exhibited protest behaviors on December 10, 11 times; December 11, 6 times; December 12, 8 times; and December 13, 13 times. For the months of January and February 2025, the Student was able to use the break card in some instances without prompting and in other instances with prompting. Some days the Student did not use the break card. What the data does not indicate is whether the Student needed the break card on the days that she did not use it—ie would the break card have assisted in the Student's behavior. On January 6, 13, 21, and 28, 2025, data was collected on the number of times the Student exhibited protest behaviors. The Student exhibited protest behaviors on January 6, 5 times; January 13, 4 times; January 21, 3 times; and January 28, 3 times. For the month

of February, the Student exhibited protesting behaviors on every day except one because the Student was absent. The maximum number of times the Student exhibited protest behaviors was 6 (one time) and the lowest was 1 (two times). No testimony was presented regarding how to interpret this information. (Joint Exhibit 12)

36. Joint Exhibit 13 is the daily data collected, but no testimony was presented to give any context to this data and how it relates to the Student. While some of the data is self explanatory—"minutes on task in resource room out of 10 minutes;" most of it is not self explanatory—"complied to neutral task." The data shows that the Student complied to neutral task each day in the month of January 2025. What it does not demonstrate is how many times the Student was asked to comply with a neutral task and if the Student complied with the neutral task each time or if it was just the one time. For the "number of tasks changed" the data indicates that the Student's tasks were changed for example 20 times on December 3, 2024, what it does not indicate is how many total tasks there were for that day. (Joint Exhibit 13)

37. Joint Exhibit 15 is the Student's data related to the Student's data related to the Student's progress towards her goals. From August through November 2024, the data shows that the Student did not make progress, which is reflected in the Student's Progress report in November 2024, and subsequently the Student's goals were revised. The data then shows that the Student began making some progress towards her goals. No testimony was presented regarding how to interpret the information. (Joint Exhibit 15)

38. Students with disabilities who are educated in a general education classroom make larger academic gains than if the students were educated in a special education classroom. (Testimony of Special Education Consultant)

39. The Student's goals set forth in the November 19, 2024, IEP are goals that can be met with aids and supplemental services. (Testimony of Special Education Consultant)
40. The Student's work should be modified from the start because the Student is known to not be able to do work on grade level, and giving her grade level work will likely just frustrate her and could trigger the refusal behaviors or other behaviors. The teachers should be looking at what they can do to make the Student successful instead of making her fail first. (Testimony of Special Education Consultant)
41. It is important that the individual providing the modified work is adequately trained. (Testimony of Special Education Consultant)
42. In looking at the location of the SDI in the March 5, 2025, IEP, the discussion regarding where the location of those services will be should take place after the discussion of placement. Even though the form that the School District uses has the location of the SDI before the determination of placement, in the Special Education Consultant's opinion, the location should not be filled in until the team has determined the placement of the Student. (Testimony of Special Education Consultant)
43. Placing students with disabilities in a segregated setting to get more services is an old way of thinking. (Testimony of Special Education Consultant)
44. The Mother did not use the Talker at home and was frustrated that the school team would not let her use her and the Student's preferred application on the Talker. The Speech-Language Pathologist consistently explained to the Mother that she was not using the application that the Mother wanted to use in her sessions with the Student and that the refusal to use the application at home was impacting the Student's ability to use the Talker appropriately. The Mother consistently did not charge the Talker or send the Talker

to the Elementary School with the Student so the Student missed sessions with the Speech-Language Pathologist and its use in the both the general education and resource classrooms. (Testimony of Mother, Speech-Language Pathologist, Joint Exhibit 4, p. 17, 24, 30-31, 33, 51, 53, 55-57, 59-62)

45. The Mother consistently watched the Student on the playground from various positions, including, her car, a tree, behind some rocks. The Mother would ask other students how the Student was doing and if they were playing with her. This activity was suspicious to the Aide who reported it to Elementary School administration. (Testimony of Aide, Special Education Teacher, Principal, SEIF, Mother)
46. The Father doesn't put much weight on education for the Student but places her ability to gain social skills from the integration in general education classroom highly. He believes social skills are more important than academic skills because as the Student grows up her ability to be independent, communicate and interact with people is more important than adding and subtracting. However, he trusts the Mother's opinion and will support her in whatever she decides is right for the Student. (Testimony of Father)
47. The Mother approached a substitute teacher who was the Aide's substitute one day and asked the substitute teacher to be the Student's 1:1 aide. The Mother did not know the substitute's qualifications or training when she made the request. (Testimony of Mother, Principal)
48. The Mother testified that the behaviors the Student's Special Education Teacher, Aide, General Education Teacher, and SEIF observe during the day are not seen at home. However, under further questioning, the Mother testified that the Student had eloped from home, resulting in the installation of special locks to prevent the Student from

opening the doors, she exhibits refusal behaviors at home, but not to the degree that is observed at home and the Mother is able to redirect the Student. The Student sees outside providers who do not report observing the behaviors. No reports or testimony was offered regarding the Student's progress during the outside providers sessions. (Testimony of Mother)

49. Neither the Special Education Teacher, SEIF, General Education Teacher, or Speech-Language Pathologist had discussions ahead of the January 29, 2025, February 12, 2025, or March 4, 2025, IEP meetings regarding the recommendation for the Student's placement to be in a self-contained classroom.

#### **IV. CONCLUSIONS OF LAW**

##### ***Least Restrictive Environment***

20 U.S.C. §1412(a)(5)(A) provides that to the maximum extent possible, a school district must ensure that students with disabilities “are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” The regulations implementing this section also set forth guidance regarding the least restrictive environment (“LRE”). 34 C.F.R. §300.114(a)(2)(ii) provides that: “[s]pecial classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” Additionally, when determining the placement of a student, 34 C.F.R. §300.116 requires the school district to: (1) determine the placement annually; (2) base the placement on

the student's IEP; (3) ensure the placement is as close to the student's home as possible; (4) ensure the student is educated in the school the student is zoned for; (5) consider any potential harmful effects on the student or the quality of the services the student needs; and (6) the student is not removed from the general education classroom as a result of the modifications the student requires to participate in the general education classroom.

The Ninth Circuit in *Sacramento City Unified School Dist., Bd. of Educ. v. Rachel H. By and Through Holland*, 14 F.3d 1398 (9th Cir. 1994) adopted a four part balancing test for determining whether the placement of a student with a disability is appropriate. (*Rachel H.*, 14 F.3d at 1404) The four factors are: “(1) the educational benefits of placement full-time in a regular class; (2) the non-academic benefits of such placement; (3) the effect [the student] had on the teacher and children in the regular class; and (4) the costs of mainstreaming [the student].” (*Id.*)

The Ninth Circuit in *D.R. by and through R.R. v. Redondo Beach Unified School District*, 56 F.4th 636 (9<sup>th</sup> Cir. 2022), interpreted the four part balancing test set forth in *Rachel H.*. The Court in *Redondo* held that the most important factor is the “academic benefits a child receives from placement in the regular classroom with the academic benefits available in a special education classroom.” (*Redondo*, 56 F.4<sup>th</sup> 636, 643 (9<sup>th</sup> Cir. 2022)) In analyzing this factor, the Court looked to the language of 20 U.S.C. §1412(a)(5)(A), which states that a school district is prohibited from placing a student with a disability in a more restrictive classroom unless the educating the student in the general education classroom **with the use of supplementary aids and services** cannot be achieved **satisfactorily**. (*Redondo*, at 644)(emphasis added). The Court then analyzed how to determine if a student's education in a general education classroom is being achieved satisfactorily. (*Id.*) The Court rejected the idea that performing at grade-level was

the standard for determining if the education was being achieved satisfactorily. (*Id.*) The Court instead held that the appropriate standard is whether the Student is making progress towards the goals set forth in the IEP. (*Id.* at 645) The Court went on to state that the student's IEP goals "need not aim for grade-level advancement' when that level of achievement is not obtainable, but they must be 'appropriately ambitious' in light of the child's unique circumstances." (*Redondo*, 56 F.4<sup>th</sup> at 646, citing *Andrew F. v. Douglas County School District RE-1*, 137 S.Ct. 988, 1000 (2017))

Applying the factors to this case, this Hearing Officer finds that the four factors set forth in *Rachel H.* weigh in favor of the Student and as such, the placement of the Student in a self-contained program is not the least restrictive environment. Each factor will be discussed in detail below.

First, in reviewing the fourth factor, the costs of mainstreaming the Student, this Hearing Officer finds that this factor weighs in favor of the Student. The Student is currently receiving supplementary aids and services including a 1:1 aide. No evidence was presented during the hearing regarding the cost of mainstreaming the Student. As such, this factor weighs in favor of the Student.

Second, in reviewing the third factor, the effect the Student has on the teacher and children in the regular class, this Hearing Officer finds that this factor weighs in favor of the School District. The General Education Teacher, Special Education Teacher, and Aide testified that the Student enjoys being in the classroom with the other students, in both the general education classroom and the resource room. However, they also testified that when the Student is confronted with an undesirable task she acts out in various ways such as eloping, screaming, hitting, kicking, hiding, and spitting which negatively impact the students in the class and the

teachers. In some instances, the other students in general education classroom have had to be removed in order to allow the Student time to settle herself. While the Mother testified that she believes the school team's observations of the Student's behavior in school such as screaming, kicking, spitting, eloping, hiding and slapping, she seems to discount those observations reasoning that they don't happen at home. Despite this testimony there are indications in the evidence that such behaviors do happen at home, but that the family is better able to handle the behaviors or redirect the Student. The Mother testified that the Student had eloped from home, resulting in the installation of special locks to prevent the Student from opening the doors, she exhibits refusal behaviors at home, but not to the degree that is observed at home and the Mother is able to redirect the Student.

The Student has a BIP, but the BIP entered as evidence was developed and implemented on March 4, 2025<sup>2</sup>, the date of the IEP at issue in this case. However, Joint Exhibits 12 through 17, inclusive contain data regarding the Student's behavior, IEP goal data, fast bridge progress monitoring data, kinder essential skills data and daily data. Some of the data was used in the development of the BIP, but there was no testimony to discuss the data or how that data should be interpreted. This Hearing Officer cannot determine what the data represents regarding the Student's behavior, but based on the Special Education Teacher, General Education Teacher, SEIF, and Aide's testimony, the Student's behavior regularly impacts the other students in the classroom in negative ways and such behavior impacts how the Student participates in the class and with her peers.

<sup>2</sup> It is unclear from the testimony and exhibits if the BIP that was developed on March 4, 2025, was a revision or a new BIP. In Joint Exhibit 12, there is an indication that the BIP developed on March 4, 2025, was a revision to an existing BIP, but if there was a prior BIP, it was not admitted at the hearing.

Conversely to the Special Education Teacher, General Education Teacher and Aide's testimony, the Music Teacher testified that the Student did well in his class and that she was able to mimic other students when she was not on task or confused at what she should be doing. He further testified that he was able to redirect her. However, Music is one of the Student's preferred activities. Even though the Student's behavior was more compliant in the music classroom, the testimony consistently indicated that the Student's behavior, which could last 63 minutes to 147 minutes each day, was impacting not only the Student herself, but other students in the classroom. Though it should be noted that there was no evidence presented that the Special Education Teacher, General Education Teacher, or SEIF met to discuss the strategies currently being implemented to address the Student's behavior. They testified that they implemented a sticker chart, break card, neutral tasks, and tokens system to use for the Student to encourage compliant behaviors and completing schoolwork. However, they also testified that such strategies lost their efficacy, but no testimony was presented on whether they met to discuss whether other strategies could be implemented or whether the current strategies needed to be adjusted. Despite this, this Hearing Officer finds that this factor weighs in favor of the School District.

Third, in reviewing the second factor, the non-academic benefits of such placement, this Hearing Officer finds that this factor weighs in favor of the Student. The Elementary School is the school that the Student would otherwise attend if she was not disabled. (See 34 C.F.R. §300.116(c)). The Special Education Consultant testified that the Student would benefit from a placement in a general education setting and that research demonstrates that students who are placed in a general education setting make larger academic and social gains than students who are placed in non-general education settings. Additionally, the Mother testified that the Student

sees some of the other students at church and in the community and that the Student enjoys going to the Elementary School. The Aide, General Education Teacher and Special Education Teacher testified that the Student is a happy student who waves to her classmates and enjoys her classmates. They also testified that the other students sometimes struggle with communicating with the Student due to her communication deficits and sometimes are not interested in engaging with the Student due to her behaviors.

The March 14, 2025, Progress Report indicated that the Student was making satisfactory progress towards her social communication goal. The notes specifically state that she was making progress lightly tapping peers on the shoulder to get their attention, had used her Talker to tell another student her name, took turns sharing with another student, ran and attempted to play tag with other students, and took turns playing Rally Robin. The SEIF got emotional and testified that the March 14, 2025, Progress Report should not have indicated that the Student was making progress towards any of the goals because the Special Education Teacher (and the other staff and herself) felt pressured and overwhelmed with the situation and feared retaliation from the Mother if they did not mark that the Student was making satisfactory progress. This Hearing Officer does not find that the SEIF's testimony regarding the accuracy of the March 14, 2025, Progress Report is persuasive. Based on testimony this Hearing Officer does believe that the SEIF, Special Education Teacher, General Education Teacher, Aide, and SLP were frustrated with the Mother's behavior and likely felt exhausted from the constant struggles and as such acquiesced to some of the Mother's demands. But this Hearing Officer also finds that neither the Special Education Teacher nor SLP testified in the same manner as the SEIF regarding the Student's progress towards her goals. The Special Education Teacher testified that she felt intimidated by the Mother because of the Mother's constant negative emails, social media posts,

and aggressive behavior. The SLP testified that she believed the Student was making satisfactory progress towards her Early Communication goal. There was also no testimony regarding whether the Student's outside providers were coordinating or even talking to the Student's Special Education Teacher, SLP, or OT. While the Student may struggle with communicating with the other students in the general education classroom and she may only be absorbing a small amount of the regular education program, she benefits from the other students as well. (See also *Daniel R.R. v. State Board of Education*, 874 F.2d 1036 (5<sup>th</sup> Cir. 1989)). This Hearing Officer finds that this factor weighs in favor of the Student.

Lastly in reviewing the first factor, which *Redondo* states is the most important factor, the educational benefits of placement full-time in a regular class, this Hearing Officer finds that this factor weighs in favor of the Student because the parties are collectively impacting and impeding the Student's progress with their own behavior and this Hearing Officer is not able to interpret the data set forth in Joint Exhibits 12 through 16, inclusive. As previously stated, grade-level performance is not the benchmark to measure the Student's academic benefits from being placed in the general education classroom. The appropriate benchmark is whether the Student is making progress towards meeting the goals set forth in her November 19, 2024, IEP. Testimony from the General Education Teacher, the Special Education Teacher, and SEIF all indicate that they collectively did not believe the Student was benefiting from the general education classroom because she was not able to do grade-level work.

In reviewing the Progress Report from October 11, 2024, it is clear that the Student was not making satisfactory progress towards the goals set forth in the September 4, 2024, IEP. As such, the Mother, Special Education Teacher, SEIF, and General Education Teacher agreed to revise the Student's goals to make them more attainable. The Special Education Teacher and

SEIF both testified that revisions to a student's goals is standard and appropriate. In addition, the Special Education Consultant testified the Student's goals should be appropriately ambitious and challenging but also recognize the capabilities of the Student. (see also *Redondo*, 56 F.4<sup>th</sup> at 645).

From the date the November 19, 2024, IEP to the January 29, 2025, when the meetings to revise that IEP began, the Student had been in school for approximately 37 days. (see Joint Exhibit 1) As previously stated, the parties stipulated to the admission of Joint Exhibits 12 through 16, inclusive, which purport to be data that was collected regarding the Student, including, without limitation, progress towards her IEP goals. However, none of the witnesses testified to those documents or how to interpret the data. For example, Joint Exhibit 15 is the IEP Goal Data. In looking at the data that was recorded after the November 19, 2024, IEP, there are dates and objectives with numbers entered in the various boxes. But this Hearing Officer cannot deduce what this data means. For example on December 13, 2024, for Objective 1 under the reading goal, there is a number 1 entered in the document, but this Hearing Officer does not know what that means and it is open to multiple interpretations. While the Student's benchmark assessments (MAP Growth) places the Student in the 4<sup>th</sup> percentile in reading for the Fall and Winter assessments, 6<sup>th</sup> percentile in math for the Fall assessment and 1<sup>st</sup> percentile in math for the Winter assessment. This alone does not demonstrate whether the Student is making progress towards the goals in her November 19, 2024, IEP.

This Hearing Officer also finds that the parties themselves are impacting the Student's progress towards her goals. The testimony shows that the Student's teachers care for the Student and want her to succeed but seem at a loss regarding the Student's behavior and the strategies that were being implemented for the Student. The strategies the teachers implemented such as the break card, token system, and sticker chart were not working in the manner that the teachers

presumed they would. Despite this, no adjustments were made to those strategies nor were there discussions between the school team about whether other strategies, accommodations, modifications, or supportive aids or services should be implemented to address the Student's behavior and educational needs.

In addition, the parties' approach to communicating with each other are impeding the progress of the Student. For example, the Mother is frustrated that the Talker uses an application that the Student does not use on a similar device at home but when the SLP explained the importance of using the Talker and the particular application that the SLP uses in her sessions with the Student and in the classroom, specifically that consistency will help the Student in her ability to communicate the Mother dismissed this and told the SLP that it was unlikely she would use the Talker at home. This has resulted in the Student being less familiar with the Talker and its application and is likely contributing to the Student's refusal behaviors. Another example is that the Mother believes that inclusion in the general education classroom will be more academically and behaviorally beneficial to the Student than in a segregated classroom and she has provided the SEIF, Special Education Teacher, and General Education Teacher with articles and research papers regarding the importance of inclusion in an general education classroom for children like the Student. Yet the SEIF, Special Education Teacher and General Education Teacher seemingly dismissed those articles and papers, despite the IDEA "strong preference" for educating students with disabilities in the general education classroom. (see *Poolaw v. Bishop*, 67 F.3d 83, 834 (9<sup>th</sup> Cir. 1994).

The Student's November 19, 2024, IEP revised the Student's goals to make them more attainable. As previously stated, this is standard and appropriate. The witnesses consistently testified that they believed these goals were "watered down" but no one testified as to what

specifically about the November 19, 2024, goals were so lessened as to be ineffective.<sup>3</sup> The Special Education Consultant testified that watering down the goals is not best practices and in his opinion, the goals in the November 19, 2024, IEP were appropriate.

Despite the SEIF, Special Education Teacher, and General Education Teacher's position that the goals were "watered down" and the Student was not making progress towards those goals, the Students teachers did not reevaluate whether the SDI or the Student's modifications/accommodations/supports set forth in the November 19, 2024, IEP were appropriate ahead of the January 29, 2025, IEP meeting. Additionally, the December 20, 2024, Progress Report shows that of the eight goals in the report, the Student was making satisfactory progress towards four of those goals. It is clear that there was some discussion during the three IEP meetings regarding the Student's modifications/accommodations/supports because the March 4, 2025, IEP contained more specific modifications/accommodations/supports that appear to be tailored to assisting the Student in the achievement of her goals.

The reasons the school team recommended a self-contained for the Student's placement were because the school team believed that the Student was not on grade-level in the general education classroom and as such the Student is not academically benefiting from that placement. They additionally felt that the Student must be on grade-level in order to show progress and must be doing grade-level work<sup>4</sup>. The school team specifically states in the March 4, 2025, IEP, that the "intensity and need for modifications cannot be met in the general education environment . .

<sup>3</sup> While not before this Hearing Officer, if the goals were so watered down as to be ineffective, it begs the question of whether the IEP was appropriately tailored to the Student's individual needs.

<sup>4</sup> There is conflicting testimony regarding the Student being presented with grade-level assignments before being offered a modified assignment. The Mother wants the Student to be presented with grade-level work as indicated in Joint Exhibit 4 at one IEP meeting. The Student's teachers believe that the Student must do grade-level work because she is in a general education classroom. The Special Education Consultant testified that he does not recommend presenting the Student with grade-level work because she is not on grade-level and modified work should be presented to the Student.

.” is one of the grounds for their recommendation that the Student’s placement be in a self-contained program which is prohibited under 34 C.F.R. §300.116(e). This is not the standard. (see *Redondo*).

This Hearing Officer finds that this factor weighs in favor of the Student. While the SEIF, General Education Teacher, and Special Education Teacher testified that the Student was not making progress and even if she was, the goals were so watered down the Student wasn’t demonstrating real progress and that the Student needed to be on grade-level to demonstrate progress, the Progress Reports demonstrate that the Student is making progress. Additionally, this Hearing Officer cannot interpret the data from Joint Exhibits 12 through 16, inclusive, and as such, does not believe the Student should be penalized for this Hearing Officer’s lack of understanding of the data. The School District had the burden of proof as set forth in NRS 388.467 to show that the four factors weighed in favor of the School District to support the self-contained classroom as the LRE and it did not meet that burden. This Hearing Officer also finds that the parties have collectively impacted and impeded the Student’s academic progress by their inability to communicate effectively. Furthermore, the school team has not adjusted the strategies they use when the Student isn’t progressing either academically or behaviorally. There is evidence that the Student is making growth in areas she likes—art, and music—and based on the March 14, 2025, Progress Report in all areas. In the classes the Student enjoys her behavior, based on testimony, is more compliant and the teacher is able to redirect the Student and she is able to model her peers. As such, this Hearing Officer finds that the final factor weighs in favor of the Student.

In reviewing all four factors, while one factor weighed in favor of the School District, the remaining three factors weigh in favor of the Student and this Hearing Officer finds that the placement of the Student in a self-contained program is not the least restrictive environment.

***Predetermination of Self-Contained Placement***

“A school district violates the IDEA if it predetermines placement for a student before the IEP is developed or steers the IEP to the predetermined placement.” (*K.D. ex. rel C.L. v. Department of Education Hawaii*, 665 F.3d, 1110, 1123 (9<sup>th</sup> Cir. 2011) citing *W.G. v. Bd. of Tr. of Target Range Sch. Dist. No. 23*, 960 F.2d 1479, 1484 (9<sup>th</sup> Cir.1992)) Pursuant to 34 C.F.R. §300.116(b)(2) the placement of a student must be based on the student’s IEP.

In this case, the testimony from the Special Education Teacher, General Education Teacher, and SEIF indicated that no one had any conversations regarding the placement of the Student in a self-contained program ahead of the January 29, 2025, February 12, 2025, or March 4, 2025, IEP meetings. The Special Education Teacher and SEIF both testified that they proceeded through the IEP based on the order of the form. They additionally testified that they filled out the SDI location when discussing the appropriate SDI for the Student because that is where it is on the form. They further testified that when they get to the section of the IEP form regarding placement, they review the locations for the SDI and select the appropriate placement based on those entries and calculate the percentage of time the Student would spend in the general education classroom. The Special Education Consultant testified that in his opinion, the location of the SDI should not be filled out at the time the discussion of the SDI is occurring and instead wait until the team discusses the placement of the Student and then go back to that section of the form and fill in the location of the SDI. The Special Education Consultant acknowledged that the IEP form used by the School District is standard and the method of

selecting the location of the SDI at that time in the discussion is standard for many school districts. It is merely his opinion and recommendation that the discussion of location of the SDI be held after the determination of placement but that discussing the location of the SDI ahead of the placement is not violative of the IDEA.

In this case, this Hearing Officer finds that there is no evidence that the placement of the Student was predetermined. This Hearing Officer finds that the methodology used by the school team in selecting the location of the SDI before the determination of the Student's placement is appropriate as acknowledged by the Special Education Consultant.

#### **V. ORDER**

This Hearing Officer, having found that the placement of the Student in a self-contained classroom is not the least restrictive environment, hereby ORDERS:

1. The Student's placement be returned to the placement set forth in the Student's November 19, 2024, IEP, wherein the Student was placed in a general education classroom 56% of the school day and a resource classroom for a portion of the school day.
2. The Student's IEP shall be revised to provide the Student with the modifications/accommodations/supports set forth in the March 4, 2025, IEP, including, a 1:1 aide, provided that the modifications/accommodations/supports which indicated the location would be a self-contained classroom shall be provided in general education classroom to the extent that they can be provided in that location or the resource room if the services cannot be provided in the general education classroom.

**VI. NOTICE AND RIGHT TO APPEAL**

Any party aggrieved by this Decision has the right to appeal within thirty (30) days of the receipt of this decision by filing with the Nevada Department of Education, Superintendent of Public Instruction, 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. At the parties' request, this decision is being delivered to the parties both by e-mail and U.S. Postal Service. Receipt of this Decision and Order will be determined by either the date of actual delivery, or the date of the first attempt to deliver, by the U.S. Postal Service.

Date: 2/10/2026

  
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