

**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 the  
Educational Decision Maker  
Petitioners,

Date: February 17, 2026

v.  
SCHOOL DISTRICT  
Respondent

Hearing Officer:  
Colleen Platt

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

This matter came for a hearing on February 2, 3, and 4, 2026. The Respondent was represented by Counsel for the School District and the Educational Decision Maker 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 Educational Decision Maker (“EDM”) on behalf of the Student on September 25, 2025. The School District filed its response to the Complaint on October 2, 2025. On October 6, 2025, this Hearing Officer issued the Preliminary Order and Notice of Status Conference. A Status Conference was held on October 6, 2025, wherein the School District indicated that the Complaint contained allegations that the Petitioner should be allowed seek relief to the beginning of the denial of the Student’s

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

Free Appropriate Public Education (“FAPE”), March 2017. The School District objected on the grounds that it was beyond the two-year statutes of limitations set forth in 20 U.S.C. § 1415(f)(3)(C) (34 C.F.R. §300.507) of the Individuals with Disabilities Education Act (“IDEA”). This Hearing Officer requested briefing on the statute of limitations issue.

The School District submitted its Brief Regarding Statute of Limitations on October 16, 2025, and the Petitioner’s Counsel submitted response on October 24, 2025. On October 20, 2025, a Pre-Hearing Conference Notice and draft issues for the hearing was issued. At the October 27, 2025, prehearing conference, this Hearing Officer determined that an evidentiary hearing was necessary to determine when the Parent/Foster Parent/Educational Decision Maker, as applicable, knew or should have known about the alleged action that forms the basis of the complaint. (20 U.S.C. § 1415(f)(3)(C)). The October 27, 2025, Pre-Hearing Conference Report and Order (“PHC Order”) set the evidentiary hearing for November 24, 2025, and December 1 and 3, 2025. The PHC Order also set forth the scope of the evidentiary hearing as follows:

1. The Parent’s understanding of the School District’s actions on March 2017, regarding the Student’s Individualized Education Program (“IEP”), including the IEP created on March 28, 2017, as well as the Parent’s understanding of the Student’s progress towards meeting the goals set forth in the Student’s IEP through June 2018.
2. The Foster Parents’ understanding of the School District’s action on March 18, 2019, February 26, 2020, September 30, 2020, November 30, 2020, April 26, 2021, November 29, 2021, November 18, 2022, November 2, 2023, including, without limitation, the Student’s progress towards meeting the goals set forth in the IEP and any evaluations conducted and/or reviewed during that time.

3. If no Parent or Foster Parent or EDM were at an IEP meeting, what steps did the School District take prior to that meeting to notify the Parent/Foster Parent/EDM about the meeting. What prior written notices or other required documentation was provided to Parent/Foster Parent/EDM, when and how were they provided.
4. The School District's knowledge regarding the parental relationship between the Student's Foster Parents and their willingness to make educational decisions pursuant to the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §§ 1411 et seq.
5. The School District's knowledge of the availability of the Student's Parent, the efforts the School District engaged in to locate the Student's Parent, and/or when the Student was a ward of the State or was an unaccompanied youth who was a homeless youth and whether the School District appointed a surrogate parent for the Student.
6. For each IEP that was mailed to the Student's Parent and/or Foster Parent, an identification of who the IEP was mailed to.
7. Pursuant to 34 C.F.R. §300.305(d) if the IEP team determines that no additional data is necessary to determine whether the student continues to be a student with a disability, and to determine the student's educational needs the school district is required to provide notice to the parent of the determination and the reasons for that determination; and the right of the parent to request an assessment whether the student continues to be a student with a disability **and to determine the student's educational needs.** (Emphasis added)  
Exhibits Band D to the EDM's Response to Motion for Regarding Statute of Limitations is a "Parent Notification of No Additional Assessment Information Needed and Status of Reevaluation: Warranted/Unwarranted" indicates that members of the Student's IEP committee and Multidisciplinary Team reviewed certain information, which included

“interview information provided by you” among other information. It further noted that the team concluded that no additional data is needed to “determine whether your child continues to be eligible to receive special education services” and that the parent has the “right to further assessment to determine whether your child continues to be a child with a disability in need of special education services.” The School District should be prepared to demonstrate who this letter was sent to and demonstrate whether a different form was provided to determine the Student’s “educational needs” as set forth in 34 C.F.R. §300.305(f).

8. If progress reports were sent to the Parent/Foster Parent/EDM, when were they sent, to whom and how were they sent.
9. Pursuant to 34 C.F.R. §300.511(f) the statute of limitations is tolled if there are specific misrepresentations by a school district that it resolved the problem forming the basis for the due process complaint or the school district withheld information from the parent that was required to be provided to the parent.
10. The School District shall be prepared to demonstrate that it did not make any misrepresentations or withheld information from the Parent that was required to be provided to the Parent.

On November 24, December 1 and 3, 2025, an evidentiary hearing was held. The following witnesses testified: Assistant Principal, Teacher 1, Special Education Teachers 1, 2, 3, 4, and 5, Special Education Instructional Facilitator 1 and 2, School Psychologist 2 and 3, Foster Care Coordinator, Principal. The following exhibits were admitted: Respondent’s Exhibits 1 to 5, inclusive, and 10 through 18, inclusive, Petitioner’s Exhibits 1 to 6, inclusive, 8 to 16, inclusive, 18 and 19. At the evidentiary hearing, a discussion was held regarding the burden of proof in the

evidentiary hearing. Petitioner argued that the School District bears the burden of proof and submitted a brief on that issue on December 2, 2025. This Hearing Officer allowed the School District the opportunity to submit a response on December 9, 2025, and the Petitioner to submit a reply on December 12, 2025. The parties submitted briefs on their respective dates.

On December 15, 2025, this Hearing Officer issued her Findings of Fact, Conclusions of Law and Order Regarding Statute of Limitations which found that the know or should have known date was May 2, 2024, that neither the Mother, Foster Parent 1-4, Maternal Aunt/Uncle knew that the Student had dyslexia or even the indicators of dyslexia. Petitioner may seek redressability beginning from March 28, 2017, because neither the Mother, nor Foster Parents 1-4, or Maternal Aunt/Uncle can be blamed for not being experts about dyslexia and that the statute of limitations was tolled beginning on March 28, 2017, because the School District misrepresented information regarding the Student's reading ability. On December 31, 2025, a Notice of Pre-Hearing Conference and draft issues for hearing was issued. On January 9, 2026, a Pre-Hearing Conference was held and a Pre-Hearing Conference Order and Report was issued setting forth the issues to be determined at the administrative hearing. On January 16, 2026, Petitioner submitted a Request for Subpoenas to subpoena certain witnesses. In a series of emails this Hearing Officer sought clarification on the request and issued an order denying the requests on January 21, 2026.

On February 2, 3 and 4, 2026, an administrative hearing was held. The following witnesses testified: Special Education Teacher 6, Executive Director of Curriculum Services, Associate Superintendent, Educational Consultant, Coordinator of Literacy and Language Office, Educational Decision Maker. The School District presented two witnesses and then concluded its case in chief. This Hearing Officer asked the Counsel for the School District whether additional

witnesses would be presented to which Counsel for the School District stated the School District rested its case in chief. This Hearing Officer asked if Counsel for the School District was relying on the testimony presented at the evidentiary hearing held on November 24, December 1 and 3, 2025, to which Counsel for the School District replied that he was. This Hearing Officer stated that the issues in the evidentiary hearing were different than the issues in this administrative hearing and questioned whether the School District was asking this Hearing Officer to review that testimony to determine if it supported any of the issues for this hearing. Counsel for the School District stated that the Hearing Officer's statement was correct.

Counsel for the Petitioner orally moved for a directed verdict arguing that the School District failed to meet its burden. This Hearing Officer denied that motion and asked Counsel for Petitioner whether she would be presenting evidence regarding the requested remedies. The parties agreed to the admission of the exhibits admitted during the evidentiary hearing in this hearing (Respondent's exhibits 1, 2, 3, 4, 5 (excluding page 1), 9, 10, 11 (only pages 1 through 4, and 21), 12, 13 (pages 1 through 5), 14, 16, 17, and 18)(Petitioner's exhibits 1 through 16, inclusive, 18 and 19). At the hearing the parties stipulated to the following School District exhibits: Respondent's 4 through 13, inclusive, and 19 through 23, inclusive, and the following Petitioner exhibits: Petitioner's 19, 23, 24, 25, 28, 35, 36.

## **II. ISSUES TO BE DECIDED**

At the Pre-Hearing Conference held on January 9, 2026, the following issues were determined to be issues set forth in the Amended Complaint:

1. Did the School District deny the Student a FAPE by failing to assess the Student in all areas of disability, specifically for Dyslexia beginning from March 2017, to May 2025?

2. Did the School District deny the Student a FAPE by failing to craft an IEP that was reasonably calculated to meet the Student's needs in reading, including for dyslexia, writing, math, and behaviors beginning on March 28, 2017, to May 2025?
3. Did the School District deny the Student a FAPE by failing to include goals that were appropriate for students diagnosed with dyslexia beginning from March 28, 2017, to May 2025?
4. Did the School District deny the Student a FAPE by failing to address the Student's achievement or lack of achievement towards the Student's goals in the following IEPs:
  - a. March 28, 2017
  - b. March 21, 2018
  - c. March 18, 2019
  - d. February 26, 2020
  - e. April 26, 2021
  - f. November 29, 2021
  - g. November 18, 2022
  - h. November 2, 2023
  - i. May 14, 2024
  - j. May 22, 2025

Specifically by removing decoding goals and copying prior IEP goals without specific indication of the Student's achievements

5. Did the School District deny the Student a FAPE by failing to tailor the Student's goals for the following IEPs:
  - a. March 28, 2017
  - b. March 21, 2018
  - c. March 18, 2019
  - d. February 26, 2020
  - e. April 26, 2021
  - f. November 29, 2021
  - g. November 18, 2022
  - h. November 2, 2023
  - i. May 14, 2024
  - j. May 22, 2025
6. Did the School District deny the Student a FAPE by preventing the Parent/EDM from meaningfully participating in the process beginning from March 28, 2017, to May 2024?

7. Did the School District deny the Student a FAPE by failing to appoint the Student an educational surrogate beginning from June 6, 2018, to January 5, 2024?
8. Did the School District deny the Student a FAPE by conducting multidisciplinary team meetings and creating IEPs without a parent present beginning from March 21, 2018, to May 14, 2024?

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

1. The Student is currently enrolled in High School. (Respondent's Evidentiary Hearing ("EH") Exhibit 1, p.1)
2. The Student's enrollment history is as follows:
  - a. For the 2017 to 2018 school year, Student attended Elementary School 2 from August 15, 2017, through September 26, 2017, and then Elementary School 3 from September 27, 2017, through May 24, 2018. (Respondent's EH Exhibit 1, p. 3)
  - b. For the 2018 to 2019 school year, Student attended Elementary School 4 from August 13, 2018, through May 23, 2019. (Respondent's EH Exhibit 1, p. 2)
  - c. For the 2019 to 2020 school year, Student attended Elementary School 4 from August 12, 2019, through February 14, 2020, then Elementary School 5 from February 21, 2020, through May 20, 2020. (Respondent's EH Exhibit 1, p. 2)
  - d. For the 2020 to 2021 school year, Student attended Elementary School 6 from August 10, 2020, through May 26, 2021. (Respondents EH Exhibit 1, p. 2)
  - e. For the 2021 to 2022 school year, Student attended Middle School 1 from August 9, 2021, through March 22, 2022, then Middle School 2 from March 24, 2022, through May 25, 2022. (Respondent's EH Exhibit 1, p. 1)

- f. For the 2022 to 2023 school year, Student attended Middle School 2 from August 8, 2022, through May 22, 2023. (Respondent's EH Exhibit 1, p. 1)
  - g. For the 2023 to 2024 school year, Student attended Middle School 2 from August 7, 2023, through May 20, 2024. (Respondent's EH Exhibit 1, p. 1)
3. The Student entered the foster care system on or about July 13, 2028. His placement in that system was as follows:
- a. On July 13, 2018, the Student was placed in the temporary care and physical custody of Foster Parent 1. (Respondent's EH Exhibit 3, p. 2)
  - b. On or about February 10, 2020, the Student was placed in the temporary care and physical custody of Shelter 1. (Respondent's EH Exhibit 3, p. 3)
  - c. On February 15, 2020, the Student was placed in the temporary care and physical custody of the Student's Maternal Aunt and Uncle. (Respondent's EH Exhibit 3, p. 4)
  - d. On March 14, 2022, the Student was placed in the temporary care and physical custody of Foster Parent 2. (Respondent's EH Exhibit 3, p. 5)
  - e. On January 5, 2024, the Student was placed in the temporary care and physical custody of Shelter 2. (Respondent's EH Exhibit 3, p. 7)
  - f. On April 4, 2024, the Student was placed in the temporary care and physical custody of Foster Parent 3. (Respondent's EH Exhibit 3, p. 6)
  - g. On June 18, 2024, Student was placed in the temporary care and physical custody of Foster Parent 4. (Respondent's EH Exhibit 3, p. 8)
  - h. On or about October 22, 2024, Educational Decision Maker 1 was appointed by the Court for the Student. (Respondent's EH Exhibit 3, p. 9-11)

- i. On or about May 23, 2025, Educational Decision Maker 2 was appointed by the Court for the Student. (Respondent's EH Exhibit 3, p. 12-15)
4. On February 27, 2017, a Multidisciplinary Evaluation Team Report ("MDT Report") was prepared for the Student. The Parent did not participate in the MDT meeting on February 27, 2017. (Petitioner's EH Exhibit 2)
5. The MDT Report provided the following information:
  - a. The Student was referred for a reevaluation on January 30, 2017, by SET 1 because of the Student's Medical Diagnosis, but no other disabilities were suspected. (Petitioner's EH Exhibit 2, BS 4)
  - b. The Student was currently living with his Mother but had spent time in the foster care system and child protection services had been involved. The family was receiving support from different community organizations to stabilize his Medical Diagnosis and mental health of the family. (Petitioner's EH Exhibit 2, BS 5)
  - c. An interview with the Student's mother was conducted on February 13, 2017. (Petitioner's EH Exhibit 2, BS 5)
  - d. As of February 3, 2017, the Student had missed 28.5 days of school. (Petitioner's EH Exhibit 2, BS 6)
  - e. The SET 1 indicated that he was far below grade level, which at this point was first grade, in reading, writing and math. (Petitioner's Exhibit 2, BS 6)
  - f. Specifically in reading, the Student struggles when sounding out letter, blending and reading. (Petitioner's Exhibit 2, BS 7)
  - g. The Student's Mother and SET 1 participated in the Behavior Assessment Systems for Children. (Petitioner's Exhibit 2, BS 7-8)

- h. Under the heading “Background information relating to communication” it was noted that the “confidential folder is incomplete and no prior MDT report or testing information available.” (Petitioner’s Exhibit 2, BS 8)
  - i. The Student’s academic screener results fall within the deficit range/far below grade level. The Student’s eligibility was not revised, and the Student continued to be eligible for special education services under the eligibility category Other Health Impairment. The Student’s Mother signed the MDT Report along with the other team members, including the SET 1. (Petitioner’s Exhibit 2, BS 10, 12)
- 6. The Student’s Mother signed the MDT Report indicating that she had received a copy of the MDT Report; understood that she could submit a written response or propose changes; and review the information used as the basis for the report. The 2017 MDT did not include an academic evaluation The Student did not have an academic evaluation by a school psychologist until 2024. (Petitioner’s EH Exhibit 2, BS 12, Respondent’s EH Exhibit 16)
- 7. A Teacher Progress Report was completed by the SET 1 dated February 6, 2017, and indicated the Student was far below grade level in all categories for reading, written expression, math, and learning support skills. There is no indication on the document regarding whether the document was provided to the Mother nor any testimony that it was provided to the Mother. (Petitioner’s EH Exhibit 2, BS 34).
- 8. On March 28, 2017, an IEP meeting was held at Elementary School 2 which was based off the MDT Report prepared by Elementary School 1. The IEP indicates that the Adult 1 participated by telephone in the IEP meeting. (Respondent’s EH Exhibit 4, p. 4-5)

9. The March 28, 2017, IEP demonstrated that the CORE Phonics Survey in reading had been administered to the Student in September 2016 and February 2017. The CORE Phonics Survey demonstrated that the Student: (1) could name 22/26 uppercase letters and 22/26 lowercase letter; (2) could identify 11/23 consonant sounds; (3) could not identify short or long vowel sounds; (4) after being instructed to read groups of 15 words, could not identify any consonant-vowel-consonant (“CVC”) (such as cat) words or short vowel words that contain blends (such as fast) or contain consonant digraphs (such as match) or long vowel spellings (such as tape) or r-controlled words (such as harm) or words with variant vowels (such as few) or with low frequency vowels (such as kneel); and (5) after being instructed to read 8 multi-syllabic real words (such as unless), could not read any correctly. The IEP demonstrated that informal assessments had been administered to the Student in writing from the Student’s data notebook from December 2016 to February 2017. The informal assessments demonstrated that the Student could write the letters “Aa, Bb, Cc, Dd, Ee, Ff, Gg” but did not write the remaining letters and could not use incorrect pronouns and verb tenses when referring to people. It also indicated that the Student could not identify the letter u, could identify the other letters, but could only identify 14/23 consonant sounds, 4/5 short vowel sounds and 1/5 long vowel sounds. The IEP also demonstrated that informal assessments had been administered to the Student in math from the Student’s data notebook from October 2016 to February 2017 that the Student could write the numbers 1-100, but could only count to 20 and could not count to 100 by tens and had difficulty identifying three dimensional shapes. The Student was eligible for special education services under the health impairment category. The IEP also contained observations regarding the Student’s

behavior/social from September 2016 to February 2017 which indicated that the Student had some behavioral issues. (Respondent's EH Exhibit 4, p. 7-13)

10. Question 6 on the March 27, 2017, IEP asked: "Does the student have a Specific Learning Disability and Dyslexia?" which was checked "no." It also had eight goals— expressive language, two for reading, two for writing, and two for behavioral/social. The IEP does not indicate if the Student was making progress towards any of those goals.

(Respondent's EH Exhibit 4, p. 18-20)

11. The March 28, 2017, IEP indicated that the Student's reading deficits impacted his fluency when reading in the general education curriculum and affected his ability to blend sounds together to read words. Students in the first grade are expected to identify all letter names and their associated consonant and vowel sounds and expected to blend sounds together to read "CVC" and short vowels and consonant blends in words. (Respondent's

EH Exhibit 4, p. 7-8)

12. The Student had difficulty in identifying all upper/lower case letters of the alphabet and corresponding sounds will affect the Student's ability to blend sounds together with real words which will impact his fluency in reading in the general education curriculum.

(Respondent's EH Exhibit 4, p. 8)

13. Under the "Statement of Parent Educational Concerns" the March 27, 2017, IEP indicated that the "Parent/Guardian stated that her educational concerns were in the (sic) area of academics (reading, writing and math)". (Respondent's EH Exhibit 4, p. 14)

14. A Progress Report was prepared on June 7, 2017, which indicated that the Student was making satisfactory progress towards the annual reading, writing, math, and behavioral/social goals developed in the March 28, 2017, IEP. The document does not

indicate whether the Mother was provided with a copy of the Progress Report, but it was noted as “filed” on June 8, 2017. (Respondent’s RH Exhibit 4, p. 1-3, Respondent’s EH Exhibit 2, p. 22)

15. On March 1, 2018, a Progress Report was prepared for the Student but it is unclear who prepared the Progress Report and there was no testimony regarding this specific Progress Report. The Progress Report indicated that the Student was making satisfactory progress towards the reading, writing, math, and behavioral/social goals. It is unclear whether this Progress Report was provided to the Student’s Mother. (Respondent’s EH Exhibit 5, p. 7)
16. On March 21, 2018, an IEP meeting was held. On the first page of the IEP, the Mother’s name is listed along with a telephone number and email address. Additionally, Adult 1 is listed as an “Emergency Contact” with a telephone number and email address. The Mother participated in the IEP meeting by telephone, but signed the IEP, including that she had received a statement of procedural safeguards and that those rights were explained. (Petitioner’s EH Exhibit 3, BS 36)
17. The March 21, 2018, IEP indicated that the CORE Phonics Survey for reading had been administered to the Student sometime in March 2018, but does not provide a specific date. It also indicates that informal assessments for math were administered to the Student in winter 2018, but no specific date was provided. The CORE Phonics Survey had almost identical results as the March 28, 2017, IEP. It indicated that the Student could not read CVC words or any words nor could he decode words. The effect on the Student was the exact same as in the March 28, 2017, IEP. The Student continued to be eligible for special education services under the health impairment category. (Petitioner’s EH Exhibit 3, BS 36. 39-42)

18. Question 6 of the March 21, 2018, IEP was checked “no.” The March 21, 2018, IEP contained five goals—reading, writing, math, expressive language, and behavioral/social. It indicated that for reading, writing, math, and behavioral/social goals the Student was making satisfactory progress towards those goals on March 1, 2018, and May 17, 2018. It does not contain any indication if the Student was making any progress towards the expressive language goal nor does it indicate if the Student had met the March 28, 2017, IEP goals. (Petitioner’s EH Exhibit 3, BS 44-46)
19. On May 17, 2018, the SET 2 prepared a Progress Report for the Student which indicated that the Student was making progress towards his annual goals in reading, writing, math, and behavioral/social set forth in the March 21, 2018, IEP. The document does not indicate whether the Progress Report was provided to the Parent. (Respondent’s EH Exhibit 5, p. 6)
20. On October 8, 2018, a Progress Report was prepared for the Student which indicated that the Student was making satisfactory progress towards his annual goals in reading, writing, math, and behavioral/social set forth in the March 21, 2018, IEP. The document does not indicate whether it was provided to the Parent, however, it is reported as being filed on October 5, 2018. (Respondent’s EH Exhibit 5, p. 4-5, Respondent’s EH Exhibit 2, p. 20)
21. On December 5, 2018, a Progress Report was prepared for the Student which indicated that the Student was making satisfactory progress towards his annual goals in reading, writing, math, and behavioral/social goals set forth in the March 21, 2018, IEP. The document does not indicate whether it was provided to the Parent, however, it is noted as

being filed on December 13, 2018. (Respondent's EH Exhibit 5, p. 4-5, Respondent's EH Exhibit 2, p. 20)

22. On March 15, 2019, a Progress Report was prepared for the Student which indicated that the Student was making unsatisfactory progress towards his writing and math goals set forth in the March 21, 2018, IEP, but was making satisfactory progress towards his reading and expressive language goals and that he had met his behavioral/social goal. The document does not indicate whether it was provided to the Parent, however it is noted as being filed on March 15, 2019. (Respondent's EH Exhibit 5, p. 4-5, Respondent's EH Exhibit 2, p. 20)
23. On March 18, 2019, an IEP meeting was held and an IEP created for the Student. The March 18, 2019, IEP indicates that the "Parent/Guardian/Surrogate" were Foster Parents 1 but no one attended the meeting. (Petitioner's EH Exhibit 5, BS 53-54)
24. The Foster Parents 1 signed the Procedural Safeguards indicating that she had received them and they had been explained to her in her primary language. (Petitioner's EH Exhibit 5, BS 55)
25. The Student was in third grade at the March 18, 2019, IEP. The March 18, 2019, IEP, indicated that the Student had been the KTEA-3 assessment administered to him in reading, writing, and math on February 22 and 27, 2019. The KTEA-3 in reading demonstrated that the Student had a grade equivalent of kindergarten first month for letter and word recognition and kindergarten 6 month for reading comprehension. The KTEA-3 demonstrated that the Student had a grade level equivalent of kindergarten six months for spelling and a pre-kindergarten eight months for written expression. The KTEA-3 demonstrated that the Student had a grade equivalent of second grade fifth month for

math computation and first grade sixth month for math concepts and applications. The March 18, 2019, IEP went on to provide that the Student could only read the words “and” and “in” and as a result was unable to complete any reading comprehension questions correctly. (Petitioner’s EH Exhibit 5, BS 56)

26. The March 18, 2019, IEP contained three goals—writing, reading, and math. It does not indicate if the Student was making any progress towards those goals nor does it indicate if the met the March 21, 2018, IEP goals. The Student remained eligible for special education services under the health impairment category. Question 7 was checked “no.” (Petitioner’s EH Exhibit 5, BS 53, 59-61)

27. On December 10, 2019, a “Parent Notification of No Additional Assessment Information Needed and Status of Reevaluation: Warranted/Unwarranted” was prepared by School Psychologist 1 which providing the following:

- a. On or about December 10, 2019, members of the IEP committee and MDT reviewed existing information regarding the Student’s educational needs, which included interview information provided by the Parent/Guardian/Adult Student, existing evaluations, current classroom based assessments, progress reports and observations by teachers and staff. (Petitioner’s EH Exhibit 6, BS 65)
- b. After a review of that information the team concluded no additional data was needed to determine whether the Student continues to be eligible to receive special education services and the School District proposed that a formal reevaluation was not warranted, no identified new assessment questions and recognition that the current eligibility was still appropriate. (Petitioner’s EH Exhibit 6, BS 65)

- c. The Parent/Guardian/Adult Student had the right to request further assessment to determine whether the child continues to be a child with a disability in need of special education services. (Petitioner’s EH Exhibit 6, BS 65)
  - d. If no response was provided to the School District by January 7, 2020, the School District would assume that the Parent/Guardian/Adult Student agreed that no additional data was needed. (Petitioner’s EH Exhibit 6, BS 65)
  - e. Foster Parent 1 signed the document on December 11, 2019. (Petitioner’s EH Exhibit 6, BS 65)
28. On February 26, 2020, an IEP meeting was held and an IEP created for the Student who was in fourth grade. The February 26, 2020, IEP indicates that the Student’s current school was Elementary School 4, however, the Enrollment History indicates that the Student was enrolled in Elementary School 4 for the 2019-2020 school year from August 12, 2019, through February 14, 2020, and then Elementary School 5 from February 21, 2020, through May 20, 2020. (Petitioner’s EH Exhibit 8, BS 67, Respondent’s EH Exhibit 1, p. 2)
29. The February 26, 2020, IEP indicates that Foster Parents 1 are the “Parent/Guardian/Surrogate” for the Student. It also indicates that this IEP is an IEP following a 3-year reevaluation. (Petitioner’s EH Exhibit 8, BS 67)
30. The February 26, 2020, IEP notes that the “Parent/Guardian/Surrogate” were not in attendance for the meeting. An entry in the Student’s Confidential Status Record indicates that the Foster Parents 1 were not in attendance and the IEP team attempted to email the Foster Parents 1 to reach them and that the meeting had to be held to be in compliance. (Petitioner’s EH Exhibit 8, BS 68, Respondent’s EH Exhibit 2, p. 13)

31. Under the “Procedural Safeguards” heading, the box is checked indicating that the Parent has received a statement of procedural safeguards and those rights have been explained in the Parent’s primary language. No Parent signature is present. The Student remained eligible for special education services under the health impairment category. (Petitioner’s EH Exhibit 8, BS 69)
32. The February 26, 2020, IEP indicated that the Student had been assessed on February 3, 2020, using the KTEA 3 assessment in reading, written language, and math. The KTEA-3 assessment in reading demonstrated that the Student had a grade equivalency of kindergarten fourth month for letter and word recognition and for reading comprehension demonstrated that the Student was at a grade equivalency of kindergarten seventh month for reading comprehension. However, it also demonstrated that the Student could not read or comprehend the stories. The KTEA-3 in written language demonstrated that the Student was at a kindergarten eleven month grade equivalency for spelling, but for written expression he was at a kindergarten three month grade equivalency. The KTEA-3 assessment in math demonstrated that the Student was at a second grade eight month grade level equivalent for math computation and a second grade level for math concepts and applications. The IEP also indicated that the Student was struggling with his emotions and is sometimes withdrawn and seems sad. (Petitioner’s EH Exhibit 8, BS 70-71)
33. Question 7 of the February 26, 2020, IEP was checked “no.” The February 26, 2020, IEP contained four annual goals for the Student—reading fluency, reading comprehension, written expression, and math. The reading goal from the March 18, 2019, IEP, regarding phonics and word analysis skills in decoding words was not included in the February 26,

2020, nor was there any documentation whether that goal had been achieved. The February 26, 2020, IEP indicated that the Student was making progress towards his reading fluency, reading comprehension, and math goals, but was making unsatisfactory progress towards the written expression goal. (Petitioner's EH Exhibit 5, BS 60, Petitioner's EH Exhibit 8, BS 73)

34. An IEP meeting was held on September 30, 2020, by videoconference to revise the Student's IEP which was agreed to by the "parent" and the IEP was emailed to the parent. However, the Student's September 30, 2020, IEP indicates that it was revised without a meeting to add distance learning minutes into the IEP because this was a time when the entire school day was conducted through distance education. The September 30, 2020, IEP lists Maternal Aunt as "Foster Mother" and Maternal Uncle as "Step Father" as the Student's "Parent/Guardian/Surrogate." There are no signatures on the September 30, 2020, IEP, nor anyone listed in the section "IEP Participation." (Respondent's EH Exhibit 2, p. 10, Petitioner's EH Exhibit 9, BS 79-80, 87)
35. On November 4, 2020, and November 18, 2020, a "Parental Prior Notice of District Proposal" was prepared by the SEIF 1 to propose the development of the Student's annual IEP and educational placement and a change in special education related services. The document was provided to Maternal Aunt by email. (Respondent's EH Exhibit 9, p. 3 and 1)
36. On November 4, 2020, and November 18, 2020, a "Parental Prior Notice -Proposed Meeting Arrangements" was prepared for by the SEIF 1. The document tentatively set a meeting to discuss the Student's annual IEP. The document was provided to Maternal Aunt by email. (Respondent's EH Exhibit 9, p. 4 and 2)

37. On November 30, 2020, an IEP meeting was held. The Student was in fifth grade. No Parent/Guardian/Surrogate was in attendance at the November 30, 2020, IEP meeting. However, the IEP team attempted to reach Maternal Aunt by text and telephone but was unable to reach her. The IEP team continued with the IEP meeting without the Parent. A copy of the IEP was sent to the “parent” by email. The November 30, 2020, IEP maintained the Student’s eligibility category as “Health Impairment.” (Respondent’s EH Exhibit 9, p. 5, 6, Respondent’s EH Exhibit 2, p. 9)
38. The November 30, 2020, IEP indicated that the Parent had received a copy of the Procedural Safeguards and had them explained to her in her primary language. (Respondent’s EH Exhibit 9, p. 7)
39. The Kaufman Test of Educational Achievement (“KTEA-3) was administered to the Student in the area of reading, writing, and math. The Student’s results of the KTEA-3 in reading indicated that the Student was considered low. The Student scored a 55 and average is 85-115. The Student’s results of the KTEA-3 in writing indicated that the Student was very low. The Student scored a 40 and average is 85-115. The Student’s results of the KTEA-3 in math indicated that the Student was below average. The Student’s score was a 71 and average is 85-115. The Student’s deficits in reading were that he was struggling with reading comprehension, and he was struggling with decoding. He was struggling with consonant blends with short vowels, digraphs, trigraphs, and with comprehension. The Student’s deficits in writing were that the Student struggles with letter sizing and formation. The Student’s deficits in math were that the Student does not demonstrate an understanding of place value, struggles to solve addition and subtraction problems requiring regrouping/borrowing. The Student struggled with

decoding and encoding, comprehension and fluency. The Student was significantly below grade level. (Respondent's EH Exhibit 9, p. 8)

40. Question 7 of the November 30, 2020, IEP is checked "no." The November 30, 2020, IEP had four goals for the Student—reading, reading comprehension, writing, math. There is no indication if the Student met the goals in the February 26, 2020, IEP were met. The November 30, 2020, IEP indicates that the Student was making satisfactory progress towards the four goals on March 12, 2021. There are no other entries regarding the Student's progress towards his goals. (Respondent's EH Exhibit 9, p. 8-12)
41. On April 16 and 23, 2021 a "Parental Prior Notice of District Proposal" was prepared for the Student which indicated that the School District was proposing to revise the Student's November 30, 2020, IEP to include the three instructional models and middle school transition. (Respondent's EH Exhibit 10, p. 4, 6)
42. On April 16 and 23, 2021 a "Parental Prior Notice -Proposed Meeting Arrangements" was prepared for the Student which indicated that the School District was proposing to have a meeting on April 26, 2021, to revise the Student's November 30, 2020, IEP to include the three instructional models and middle school transition. (Respondent's EH Exhibit 10, p. 4, 6)
43. On April 26, 2021, an IEP meeting was held and the Student's IEP was revised. The April 26, 2021, IEP indicates that Maternal Aunt attended the meeting. The meeting was held by videoconference. Despite the IEP indicating that the Maternal Aunt attended the meeting, the Maternal Aunt did not attend because the purpose of the April 26, 2021, IEP meeting was to add the different instructional models to (virtual, in person and hybrid)

the IEP. The April 26, 2021, IEP does not update the Student's present levels from the November 30, 2020, IEP. (Respondent's EH Exhibit 10, p. 8-14)

44. On May 21, 2021, the SEIF 1 prepared a Progress Report for the Student. The document indicated that the Student was making satisfactory progress towards his reading, reading comprehension, writing, and math goals. The Progress Report was sent to the "parent" via email. (Respondent's EH Exhibit 10, p. 3, Respondent's EH Exhibit 2, p. 9)
45. On October 8, 2021, a Progress Report was prepared for the Student. The document indicates that the Student was making satisfactory progress towards his reading, reading comprehension, math, and writing goals. The document does not indicate whether this was sent to the Student's Parent. (Respondent's EH Exhibit 10, p. 1-2)
46. On November 3 and 22, 2021, a "Parental Prior Notice of District Proposal" was prepared by the SEIF 2 for the Student indicating that the School District was scheduling a meeting to discuss revising the Student's annual IEP, changing the special education placement and special education related services. The SEIF 2 emailed the documents to the Student's "parent." (Respondent's EH Exhibit 11, p. 4, 2, Respondent's EH Exhibit 2, p. 8)
47. On November 3 and 21, a "Parental Prior Notice –Proposed Meeting Arrangements" was prepared by the SEIF 2 for the Student indicating that the School District was scheduling a meeting on November 29, 2021, to discuss revising the Student's annual IEP, changing the special education placement and special education related services. The SEIF 2 emailed the documents to the Student's "parent." (Respondent's EH Exhibit 11, p. 4, 2, Respondent's EH Exhibit 2, p. 8)

48. On November 3, 2021, in the Confidential Status Record of the Student the SEIF 2 entered a note that indicated she spoke to the Student's "dad." (Respondent's EH Exhibit 2, p. 8)
49. On November 29, 2021, an IEP meeting was held. The Student was in sixth grade. The IEP lists Adult 2 and Adult 3 as "Foster Father" and "Foster Mother" respectively. The Student's eligibility continued to be Health Impairment. No adult attended the November 29, 2021, IEP meeting on behalf of the Student. The SEIF 2 called the "parent" twice, left a voicemail and eventually held the meeting without the "parent." (Petitioner's EH Exhibit 12, BS 121, 122, Respondent's EH Exhibit 2, p. 8)
50. The November 29, 2021, IEP indicates that the Student was assessed at a third grade level on the "easy CBM" in reading and he was able to read 14 words per minute with 81% accuracy. This is below the sixth grade level and even the third grade level. The CORE Phonics Survey results demonstrated that the Student could decode some words, but when a student gets to middle school, it's generally expected that the student can decode all words presented to them. The Student was also assessed on the "easy CBM" in Math which demonstrated that the Student was at a third grade level for math. The IEP indicates that the Student participates in class discussions and raises his hand but can act out by yelling or leaving the classroom. Question 7 is checked "no." The IEP had four goals for the Student—reading, writing, math, and behavior. There is no indication if the Student made progress towards those goals or if he met those goals. (Petitioner's EH Exhibit 12, BS 124-128)

51. On November 29, 2021, the SEIF 2 prepared a “Notice of Intent to Implement IEP” for the IEP created on November 29, 2021. The document was emailed to Adult 2.  
(Respondent’s EH Exhibit 11, p. 21)
52. On October 20, 2022, a “Parent Notification of No Additional Assessment Information Needed and Status of Reevaluation: Warranted/Unwarranted” (“Waiver”) was prepared by School Psychologist 2 and School Psychologist 3. The document mirrors the prior document prepared on December 10, 2019. The document does not indicate to whom it was sent. (Petitioner’s EH Exhibit 13, BS 137)
53. The Waiver allows the parent to submit the form back to the School District requesting an assessment be conducted and if so requested, the School District will conduct the assessment. The School District has criteria for the Waiver which are: (1) the student has two or more prior, consecutive evaluations confirming the current disability classification; (2) the student’s identified disability continues to adversely impact achievement; (3) no other disability is suspected of adversely affecting impacting achievement; (4) no additional assessments are needed or have been requested by the parent or teacher; and (5) the student’s progress towards IEP goals demonstrates a continuing need for specialized instruction. (Petitioner’s EH Exhibit 13, BS 137, Petitioner’s EH Exhibit 14, BS 138)
54. On November 18, 2022, the School Psychologist 3, with the assistance of School Psychologist 2, prepared the “Statement of Need for Reevaluation” which indicated that the Student did not need a reevaluation because he satisfied all of the criteria identified in the document. Foster Parent 2 is indicated as having agreed to the document by telephone. (Petitioner’s EH Exhibit 14, BS 138)

55. On October 25, 2022, a “Parental Prior Notice of District Proposal” and “Parental Prior Notice—Proposed Meeting Arrangements” regarding scheduling a meeting for November 18, 2022, to discuss revising the Student’s IEP which was prepared by Special Education Teacher 4 (“SET 4”). The documents were sent home with the student. (Respondent’s EH Exhibit 12, p. 1-2)
56. On November 18, 2022, an IEP meeting was held to revise the Student’s IEP. The November 18, 2022, IEP listed Foster Parent 2 at the Student’s “Mother.” No parent or adult was present for the November 18, 2022, IEP meeting. Under “Procedural Safeguards” the box is checked that the parent received the procedural safeguards and that they were explained to them in their primary language. The Student remained eligible for special education services under the health impairment category. (Respondent’s EH Exhibit 12, p. 7-8)
57. The November 18, 2022, IEP indicates that the Student was assessed using the “Wide Range Assessment Test IV” (“WRAT”) for reading. The WRAT demonstrated that the Student was significantly behind in reading. Specifically, the Student scored in the “Lower Extreme Performance Range” for “Word Reading” being able to read the word “cat” and “in” but reading “bok” for “book” and “hi” for “how.” The Student scored in the “Lower Extreme Performance Range” for “Sentence Comprehension.” The Student’s Lexile score on the Scholastic Reading Inventory was “Beginning Reader” which is a kindergarten through second grade reading level. The Student’s score in “Written Expression” was in the “Lower Extreme Performance Range.” The Student’s score in “Math” was in the “Lower Extreme Performance Range.” (Respondent’s EH Exhibit 12, p. 10-11)

58. Question 7 of the November 18, 2022, IEP was checked “no.” The November 18, 2022, IEP had only two goals for the Student—a “reading comprehension” goal and a “math” goal. It did not have any goals for the Student regarding decoding or encoding. The Student had a text-to-speech and speech-to-text device for reading and math listed in the modification/accommodation section of the IEP. The IEP indicated that the Student was making satisfactory progress towards the two goals on December 6, 2022, March 8, 2023, and May 18, 2023, but does not indicate that the Student had met those two goals. The goals set forth in the November 18, 2022, IEP are different from the November 29, 2021, goals, but there is no indication that the Student met the goals set forth in the November 29, 2021, IEP. (Respondent’s EH Exhibit 12, p. 13-14)
59. A “Notice of Intent to Implement” the November 18, 2022, IEP was prepared by the SET 4. Question 4 of the document indicates that the “parent/guardian agreed with the IEP” despite no parent/guardian being in attendance at the IEP meeting. (Respondent’s EH Exhibit 12, p. 20)
60. The Student struggled with visual and auditory sequential memory (struggling with putting the letters in the correct order), processing speed (knowing the word is wrong when reading it, going back to reread). (Respondent’s EH Exhibit 17, p. 13)
61. On October 18, 2023, and October 24, 2023, a “Parental Prior Notice of District Proposal” and “Parental Prior Notice—Proposed Meeting Arrangements” regarding scheduling a meeting for November 2, 2023, to discuss revising the Student’s IEP which was prepared by the SET 4. The document indicates that it was provided to the “parent” but the name was Foster Parent 2. (Respondent’s Exhibit 13, p. 1-5)

62. On November 2, 2023, an IEP meeting was held. Present at the meeting were LEA Representative 1, SET 4 and General Education Teacher 1. No parent, adult or EDM was in attendance. The IEP indicates that the WRAT was administered to the Student on October 5, 2023, but the Student's scores were similar to the WRAT from 2022. The IEP also indicated that the Student's Standard Scores in reading fall in the "Lower Extreme." The Student's scores in the WRAT for written expression that the Student was in the "Low Performance Range." It also indicated that the Student uses a speech-to-text for writing. The IEP indicated that the Student was in the "Lower Extreme Performance Range" for math. Question 7 is checked no. The IEP contained 3 goals for the Student—reading, written expression, and math. The math goal in the November 2, 2023, IEP is different than the math goal in the November 18, 2022, IEP, however the November 18, 2022, IEP does not indicate that the Student had met that math goal, it only indicated that the Student was making satisfactory progress on December 6, 2022, March 8, 2023, and May 18, 2023. The SET 4 called the Student's home and left a message. A copy of the IEP was sent home with the Student. The reading comprehension goal from the November 18, 2022, IEP was removed, but that IEP indicates that the Student had not met that goal and was only making satisfactory progress on December 6, 2022, March 8, 2023, and May 18, 2023. The Student struggled with decoding words, but there was no decoding goal in the November 2, 2023, IEP. (Respondent's EH Exhibit 2, p. 4, Respondent's EH Exhibit 12, p. 13-14, Respondent's EH Exhibit 13, p. 9)
63. On May 14, 2024, a meeting was held to revise the Student's IEP following a 3-year evaluation. Present at the meeting were: the EDM, SET 4, Teacher 1, LEA Representative 2, Case Worker 1, Occupational Therapist and Legal Advocate. The May 14, 2024, IEP

determined the Student was eligible for services under the health impairment and specific learning disability categories. (Petitioner's Administrative Hearing ("AH") Exhibit 19, BS 187-188)

64. The May 14, 2024, IEP indicated that an MDT Report had been completed on May 2, 2024, which indicated that the Student was functioning at the level of his peers in listening comprehension and oral expressions but was well below his peers in reading fluency, basic reading, reading comprehension, written expression, math calculation, and math problem solving. The MDT Report also indicated that the Student is cooperative and maintains emotional control but has difficulty expressing his emotion and with social awareness, initiation of social contact and forming relationships. It also indicated that the Student appears to demonstrate indicators of dyslexia and recommend eligibility under the specific learning disability and health impairment categories. (Petitioner's AH Exhibit 19, BS 188)

65. The May 14, 2024, IEP indicated that the Woodcock-Johnson 4 Tests of Achievement ("WJA"), the Easy CBM Reading, and MAP Growth Reading assessments had been administered to the Student on April 30, 2024. It also indicated the WJA in Intervention Central Writing Probe and Math Growth Assessment assessments had been administered to the Student on April 30, 2024. The WJA in reading demonstrated that the Student was in the Extremely Low range and at a first grade level equivalent for the letter-word identification, passage comprehension, and word attack. On the Easy CBM for reading the Student was in the first percentile and well below average for his grade. For written expression, the WJA demonstrated that the Student was at the Extremely Low Range and at a first grade equivalent level. For math, the WJA demonstrated that the Student was

functioning in the Very Low Range and was at a first grade level equivalent. The WJA in math indicated that the Student was in the Very Low Range and was about a second to third grade level equivalent. The IEP also indicated that the Student was a quiet, respectful young man who occasionally sleeps in class and works hard in class. It also indicated that the Student was rated in the At Risk range stating that the Student engages in behaviors that are considered strange or odd and he can seem disconnected with his surroundings. (Petitioner's AH Exhibit 19, BS 188-190)

66. The May 14, 2024, IEP checked the box "yes" to Question 7 regarding whether the Student has a specific learning disability and dyslexia. The IEP also included seven goals—two for reading, written expression, math, and three for social/emotional. The reading goals did not include any decoding or encoding goals. The EDM agreed to the IEP via google meet. The EDM agreed to the IEP because she had been working as the Student's EDM since January 2024 and had been trying to get assessments to determine the Student's current level but had not had time to get the assessments scheduled and completed ahead of the IEP meeting and she felt that an IEP that was somewhat better than the prior year's IEP was better than nothing. (Testimony of the EDM, Petitioner's AH Exhibit 19, BS 196, 198-202, 209)

67. The Coordinator of Literacy and Language Services ("Coordinator") testified that he holds trainings on dyslexia for School District personnel. Each elementary school within the School District must appoint a dyslexia liaison who assists teachers in kindergarten through third grade at the elementary school with students who may be demonstrating indicators of dyslexia. The School District has implemented three tiers of support for students who demonstrate indicators of dyslexia. If a student exhibits indicators of

dyslexia a letter is sent to the parent saying that the student is at risk and that student is placed in the Tier 2 supports to assist a student with reading. The tiered system is separate from dyslexia interventions and both should be implemented at the same time. So even a student who is in a self-contained classroom should receive the tiered system of support.

(Testimony of Coordinator, Petitioner's AH Exhibit 28)

68. The general education teacher, dyslexia liaison, literacy specialist, learning strategist, special education teachers, and case manager are all responsible for screening for indicators of dyslexia. (Petitioner's AH Exhibit 28, BS 304)

69. Indicators of dyslexia are deficits in:

- a. Phonological and phonemic awareness. Such as displaying difficulty identifying words that rhyme, generating rhyming words, or counting syllables and difficulty recognizing and manipulating sounds.
- b. Sound symbol recognition. Such as difficulty connecting sounds to the letters that make them.
- c. Alphabet knowledge. Such as difficulty naming letters or remembering shapes of letters, reversing or transposing letters.
- d. Decoding skills. Such as difficulty reading unknown words with known patterns or chunks, lacking strategies for word attack.
- e. Rapid naming skills. Such as difficulty with fluency in the area of letter naming and high frequency words.
- f. Encoding skills. Such as difficulty with spelling and written composition.

(Petitioner's AH Exhibit 28, BS 304-321)

70. The Educational Consultant received a Ph.D. in Educational Psychology and Technology from the University of Southern California in 2002. Her Ph.D. thesis was on Cognition, Motivation and Instructional Design Emphasis. She received a Master of Arts in Educational Psychology and Technology from the University of Southern California in 1998. She received a Basic Teaching Credential in Elementary Education with an emphasis on literacy, reading and multi-cultural emphasis from the University of Redlands in 1991 and a Bachelor's in Journalism, Advertising, and Marketing from the University of Georgia in 1989. She is an adjunct faculty member in clinical psychology at the Chicago School of Professional Psychology in Los Angeles. She has taught at elementary schools in California. This Hearing Officer recognized her as an expert. (Testimony of Educational Consultant, Petitioner's AH Exhibit 24, BS 230-237)
71. The Educational Consultant prepared a report regarding the Student ("Report"). She reviewed the Complaint, the May 2, 2024, and February 27, 2017, MDT Reports, the Reading and Writing Goals and Present levels of the Student from May 26, 2016, the Silver State Neuropsych Report from May 28, 2025, and the Barton Level 1 Review Documents from October 6, 2025. (Petitioner's AH Exhibit 23, BS 214)
72. The Report reviewed the May 26, 2016, IEP and reported that the Student does not identify all letter sounds or demonstrate an understanding that the words have meaning and while the Student could answer simple questions such as where, what and who, he could not answer more complex questions such as why, when and how. The Report indicated that a student who exhibited such a lack of understanding needs more than letter-to-sound correspondence and needs an immersion in simple language in a repetitive manner. The Report went on to question why the Student was not receiving specialized

instruction and interventions for phonological processing, dyslexia, or general language development. The Report indicated that even in 2016, the Student was exhibiting indicators of dyslexia. (Petitioner's AH Exhibit 23, BS 214-215)

73. The Educational Consultant met with the Student on four different occasions—January 9, 12, 14, and 21, 2026. During the sessions the Educational Consultant discussed the Student's likes and goals for after high school. The Student had no response to the Educational Consultant's question about what he was interested in for his future, however by the last meeting the Student was more open to learning about what he could do in the future. The Educational Consultant also discussed various strategies to determine the Student's reading level which the Student indicated he had never engaged in before. The Report set forth certain accommodations the Educational Consultant would have expected the Student's IEP would have provided to the Student given his reading level. Such accommodations include: explicit instruction, sequential, systematic, multi-sensory, prescriptive, diagnostic, and repetitive. The Education Consultant believes that such accommodations should be based in the Orton-Gillingham method and that the Student should have such remediation accommodations. (Testimony of Educational Consultant, Petitioner's AH Exhibit 23, BS 216-221)

74. The Report continued that additional accommodations should be provided to the Student once evidenced-based remediation is in place. The Report explained that dyslexia is a language based processing disorder and the Educational Consultant testified that the brains of individuals with dyslexia do not make the connections regarding the mechanics of reading and the different parts of reading. Some words the brain is able to orthographically map so that reading that word is automatic—individuals who are

dyslexic have a harder time orthographically mapping words. (Testimony of Educational Consultant, Petitioner's AH Exhibit 23, BS 221-223)

75. The Educational Consultant recommended that the Student receive intervention on many levels that would involve the majority of the school day in order to rewire the Student's brain to decode and encode language at a basic elementary level. She recommended remediation that was specific to Orton-Gillingham based lessons 60 to 90 per day, 4-5 weeks, at 48 weeks per year for 4 years or enrollment in a specialized school that allows for an immersive school experience based in the Orton-Gillingham lessons. She testified that she charges \$225 per hour for her services which is less than others in the field charge. (Testimony of Educational Consultant, Petitioner's AH Exhibit 23, BS 225-227)

76. The Educational Consultant identified two schools that were located near where she was located—Frosting and Westmark. They are both private schools and are not boarding schools. She stated that she is not on the board or affiliated with either school, but she does know some of the teachers/administration at both schools. She has not been to Westmark but has visited Frosting. Both schools are not boarding schools.

77. The Student is relocating to California pursuant to Interstate Compact on the Placement of Children (NRS 127.320 to 127.350, inclusive) to reside with a family member. It is unclear whether the EDM will continue to serve as the Student's educational decision maker after the Student relocates to California. It is also unclear when the Student will be relocating to California. (Testimony of EDM)

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

The Individuals with Disabilities Education Act ("IDEA") was enacted for, among other reasons, to "ensure that all children with disabilities have available to them a free appropriate

public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.” (20 U.S.C. §1400(d)(1)(A)) NAC 388.340(4)(b) and 34 C.F.R. §300.304(c)(4) require a student to be assessed in all areas of suspected disability. (see also 20 U.S.C. §1414(b)(3)(B)) “Anything less would not provide a picture of the child’s needs.” (*Timothy O. v. Paso Robles Unified Sch. Dist.*, 822 F.3d 1105, 1111 (9<sup>th</sup> Cir. 2016))

When a student displays behavior or indicators of a “covered disability, [a school district] must assess that [student] in all areas of that disability using thorough and reliable procedures . . .” (*Timothy O.*, 822 F.3d at 1119) A school district is aware that it has reason to suspect that a student has a disability when the student is displaying symptoms or indicators of that disability. (*Id.*) A school district’s compliance with the procedural safeguards set forth in the IDEA is “essential to ensuring that every eligible child receives a FAPE, and those procedures which provide for meaningful parental participation are particularly important.” *Mrs. S. v. Vashon Island School District*, 337 F.3d 1115, 1129 (9<sup>th</sup> Cir. 2003) (citing *Amanda J. v. Clark County School District*, 267 F.3d 887, 891 (9<sup>th</sup> Cir. 2001)). Though a school district may have engaged in a procedural violation of the IDEA, not every procedural violation will be the denial of a FAPE to a student. (*Amanda J.*, 267 F.3d at 892). A procedural violation denies a student a FAPE when the procedural violation: (1) impairs a parent’s right to participate in the IEP development process; (2) results in the loss of educational opportunity for the student; or (3) results in a deprivation of the student’s educational benefit. (*Amanda J.*, 267 F.3d at 892).

NRS 388.417(2) defines “dyslexia” as “a neurological learning disability characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language.” NRS 388.417(3)

defines “dyslexia intervention” as a “systematic, multisensory intervention offered in an appropriate setting that is derived from evidence-based research.” NRS 388.439 and 388.441 require each school district to prescribe an early literacy screening assessment for all elementary schools to administer the assessment to each student in kindergarten through grade three who has indicators of dyslexia and needs intervention. The assessment screens for: (1) phonological and phonemic awareness; (2) sound-symbol recognition; (3) alphabet knowledge; (4) decoding skills; (5) rapid naming skills; and (6) encoding skills.

Once a student has been identified as having dyslexia, NRS 388.443 requires the IEP team to consider certain instructional approaches such as explicit, direct instruction that is systematic, sequential, and cumulative. Each elementary school principal is required to identify a teacher to receive training in effective methods of intervention for students with dyslexia. (NRS 388.445) Each school district is also required to ensure that at least one employee who serves kindergarten through grade 3 at each school in the school district to receive professional training in dyslexia. (NRS 388.445)

Once a student is identified as a student with a disability and has been assessed for such disability, the school district is required to create an IEP for that student that is reasonably calculated to allow the student to receive educational benefits. (*Board of Education of Hendrick Hudson Central School District Bd of Ed Westchester County v. Rowley*, 458 U.S. 176, 207 (1982)) “The IEP is ‘the centerpiece of the statute’s education delivery system for disabled children.’” (*Andrew F. v. Douglas County School District*, 137 S.Ct. 988, 1000 (2017), citing *Honig v. Doe*, 484 U.S. 305, 311 (1988)) A student’s IEP must be “reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances” and must “enable the child to make progress.” (*Andrew F.* 137 S.Ct. at 1001) The IEP is unique to each

student, requiring a school district to focus on the individual student and create an IEP that is individualized to that student and crafted after considering the student's own present levels and designed to ensure the student has academic and functional advancement. (20 U.S.C. §1401(29), (14)(d), 20 U.S.C. §1414(d)(1)(A)(i)(I)-(IV), *Andrew F.* at 999) A student's IEP must be reviewed at least annually to determine whether the student is making progress towards the goals set forth in the IEP and such IEP must be revised to address any lack of progress towards the goals, the results of any evaluations, parental input, the student's unique needs, or any other matter. (34 C.F.R. §300.324(b))

The IDEA requires school districts to ensure that parental participation in the development of the student's IEP and at all steps in the process. (34 C.F.R. §300.322) Courts have also recognized that parental participation is essential to the process and procedural violations that interfere with parental participation "undermine the very essence of the IDEA." (*Amanda J.*, 267 F.3d at 892) NRS 388.283 requires a school district to appoint a surrogate parent for a student with a disability if the student's parent cannot be identified, is not able to be located, or is a ward of the state. (See also 20 U.S.C. §1415(b)(2) and 34 C.F.R. §300.519)

At the administrative hearing conducted on February 2, 3, and 4, 2026, the School District presented only two witnesses, the Student's current teacher (SET 6) and the Executive Director of Curriculum Services, an administrator responsible for enacting a new program that the School District recently purchased in early 2026 to assist the School District in training its teachers in dyslexia and providing supportive services to students with dyslexia. None of the Student's previous teachers testified. While the School District seeks to have this Hearing Officer review the testimony from the evidentiary hearing conducted on November 24, December 1 and 3, 2025, the issues in the evidentiary hearing are significantly different than the

ones in the administrative hearing. Specifically, the issues before this Hearing Officer in the evidentiary hearing was regarding the Mother’s understanding of the Student’s IEPs and the Student’s progress towards meeting the goals set forth in the IEPs and whether the School District withheld any information or misrepresented information to determine what the “know or should have known” date set forth in 20 U.S.C. §1415(b)(6)(B) and 20 U.S.C. §1415(f)(3)(C) was related to this matter. These issues are different than the issues set forth in the Pre-Hearing Conference Report and Order dated January 9, 2026. Additionally, even if this Hearing Officer were to consider the testimony presented at the evidentiary hearing, that testimony is not useful—most, if not all of the Student’s teachers who testified that day had little to no recollection of the Student other than he could not read and everyone knew he could not read. The witnesses also did not know what dyslexia was other than it was when a student had a reading difficulty nor did they know the indicators of dyslexia.

Pursuant to NRS 388.467, the School District has the burden of proof and production in this matter.

In this case, the School District has not met its burden of proof or production regarding the issues before this Hearing Officer in this matter. As such, as described in more detailed below, this Hearing Officer finds that the School District has denied the Student a FAPE and finds in favor of the Petitioner for all issues set forth in the January 9, 2026, Pre-Hearing Conference Order and Report.

***Did the School District deny the Student a FAPE by failing to assess the Student in all areas of disability, specifically for Dyslexia beginning from March 2017, to May 2025?***

This Hearing Officer finds that the School District denied the Student a FAPE by failing to assess the Student for dyslexia beginning from March 2017 through May 22, 2025. The

Student's IEPs beginning on March 28, 2017, through May 22, 2025, contained enough information that the School District knew the Student was exhibiting indicators of dyslexia. (See Respondent's AH Exhibits 4 through 13, inclusive, and 21, and Petitioner's AH Exhibit 19) In each of those IEPs, the Student's present levels consistently indicated that the Student was unable to decode, encode, or read.

For example, In looking at the March 28, 2017, IEP, the Student was in first grade and the Student could only identify 15 of 26 uppercase letters and 17/26 lower case letters, he only identified 4/23 consonant sounds and could not identify any short or long vowel sounds or decode any words. In looking at the indicators of dyslexia set forth in the "Indicators of Dyslexia" prepared by the Curriculum and Instruction Division, the Student clearly demonstrated indicators of dyslexia at that time. (See Petitioner's AH Exhibit 28) Despite this, the School District never conducted the early literacy screening assessment required by NRS 388.441 despite such assessment being required since July 1, 2015. This continued in the Student's IEPs for second and third grade. In fact, in comparing the CORE Phonics Survey from March 2017 to March 2018, the Student's only growth was that he could name 23/26 uppercase letters in March 2018 compared to 15/26 for March 2017 and 22/26 lowercase letters in March 2018 compared to 17/26 in March 2017. The Student still could not identify any short or long vowel sounds in the March 2018 IEP. (see Respondent's AH Exhibits 4 and 5) The School District still did not administer the early literacy screening assessment to the Student in second or third grade.

The Student's IEPs after third grade demonstrated similar deficiencies. And the Student likely relied on his speech-to-text, text-to-speech device and strategies as described by the Educational Consultant regarding memorization, context clues, and guessing.

The Student was identified as a student with a specific learning disability and dyslexia in the May 14, 2024, IEP after an MDT concluded that the Student demonstrated indicators of dyslexia on May 2, 2024, which was only conducted at the request of the EDM. The May 2, 2024, MDT did not specifically state that the Student has dyslexia, only that he demonstrated indicators. It is unclear from the record whether the Student has been formally assessed for dyslexia, despite the IEPs indicating that the Student has dyslexia. (See Respondent's AH Exhibit 17, p. 13) No evidence was presented at the administrative hearing to demonstrate that the School District assessed the Student for dyslexia. There was no documentary evidence or testimony to indicate that the early literacy screening assessment was administered to the Student when he was in kindergarten through third grade or whether any other assessment was administered to the Student to determine if the Student was a student with dyslexia. The failure of the School District to assess the Student for dyslexia caused a deprivation of educational benefits—the Educational Consultant testified that students who have dyslexia have a processing disorder where the brain of the student is unable to make the correct connections when reading and as such, need a different type of strategies to assist them in learning to read. If those students do not have the appropriate strategies, they can develop automatic tendencies such as guessing at words based on the initial letter, memorizing shapes and pages in a book or exam, using context clues and guessing based on illustrations. These tendencies can be difficult to correct but can be corrected with appropriate remediation. (See Petitioner's AH Exhibit 23) This Hearing Officer finds that the School District's failure to assess the Student for dyslexia beginning from March 2017 through May 22, 2025, was a procedural violation that resulted a deprivation of the Student's educational benefits and as such, the School District denied the Student a FAPE. (*Amanda J.* 267 F.3d at 892)

***Did the School District deny the Student a FAPE by failing to craft an IEP that was reasonably calculated to meet the Student's needs in reading, including for dyslexia, writing, math, and behaviors beginning on March 28, 2017, to May 2025?***

This Hearing Officer finds that the School District denied the Student a FAPE by failing to craft each of the Student's IEPs from March 28, 2017, through May 22, 2025, in a way that was reasonably calculated to meet the Student's needs in reading or for dyslexia. The Student's present levels in each IEP from March 28, 2017, through May 22, 2025, consistently demonstrated that he was unable to read, could not decode or encode words, was demonstrating indicators of dyslexia, couldn't write his last name and had difficulty in math. Yet the Student's goals were removed without any indication that the Student had met the goals. The Student's goals were not revised in any meaningful way to allow the Student to achieve academic and functional advancement. For the reasons discussed in further detail below, this Hearing Officer finds that the School District's failure to craft each of the Student's IEPs from March 28, 2017, through May 22, 2025, in a way that was reasonably calculated to meet the Student's needs in reading or for dyslexia resulted in a deprivation of the Student's educational benefits and as such, the School District denied the Student a FAPE. (*Id.*)

***Did the School District deny the Student a FAPE by failing to include goals that were appropriate for students diagnosed with dyslexia beginning from March 28, 2017, to May 2025?***

This Hearing Officer finds that the School District denied the Student a FAPE by failing to include goals that were appropriate for students diagnosed with dyslexia beginning from March 28, 2017, to May 14, 2024. The Student's IEPs from March 28, 2017, through May 22,

2025, demonstrated that the Student's present levels were not improving and the Student could still not decode or encode words, nor could he read. Despite this, the School District consistently revised the Student's IEP by removing goals without any indication that the Student had met the prior year's goals and implementing goals that were either the same as the year prior or were so minimally different as to be ineffective. No goals were added that specifically focused on the Student's dyslexia. For example, the Student's reading goal in the March 28, 2017, IEP was "by annual review date, [Student] will increase his ability to use letter-sound relationships to blend sounds together to decode words, achieving a criteria of 80% as measured by observation and documentation as implemented by the Special Education Staff." There were three benchmark/short-term objectives related to identifying consonant sounds, long and short vowel sounds, and initial, medial and ending sounds.

In the March 21, 2018, IEP, the Student's present levels indicated that the Student could identify 23/26 uppercase letters and 22/26 lowercase letters. He could identify 14/23 consonant sounds but could not identify any short or long vowel sounds. It further indicated that the Student could not read any CVC words, no short vowel words, no short vowel words with consonant digraphs and the -tch digraph, no r-controlled vowel words, no words with long vowel spellings, no words with variant vowels, and no words with low frequency vowels. The IEP indicated that the effect of these deficiencies on the Student was that it would affect his ability to blend sounds together to read words, which impacts the Student's fluency when reading. Despite not being able to read any words, the IEP included only one reading goal: "By annual review date, in a classroom setting, [Student] will be able to identify the main idea of a passage achieving a criteria of 80% in 4 out of 5 trials as measured by observation and documentation and as implemented by the Special Education Staff." The goal included four benchmark/short-term

objectives, all about identifying the main idea or theme of the passage. The Student couldn't read the word cat, but the School District set a goal for him to identify the main idea of a passage. No goals were added to address the Student's inability to decode or encode words.

The March 18, 2019, IEP continued to demonstrate that the Student could not decode or encode words. The Student was in third grade in 2019 but the KTEA-3 demonstrated that his letter and word recognition was at a kindergarten one month grade equivalent level and his reading comprehension was at a kindergarten six month grade equivalent level. The goal for this IEP was "By annual review date in a classroom setting, [Student] will know and apply phonics and word analysis skills in decoding words achieving a criteria of 80% as measured by observation, documentation, and progress monitoring as implemented by the special education staff." The benchmark/short-term objective wanted the Student to know all of the letter sounds, blends of letters, and CVC words. There was no indication in the IEP of whether the Student was making any progress towards his reading goal.

The November 18, 2022, IEP demonstrated that the Student's present levels were still significantly below average. The Student was in 7<sup>th</sup> grade, but the IEP demonstrated that the SET 4 observed that the Student struggles to read aloud and lacked fluency and decoding skills. This IEP only included two goals for the Student, a math goal and a reading comprehension goal. The reading comprehension goal set forth that "[Student] will increase his reading comprehension by 6 months growth when reading passages at his instructional level achieving a 4 out of 5 trials, measured by observations, student work samples, and tests and implemented by the Special Education Teacher and staff." The benchmark/short-term objectives related to the Student being able to identify the main idea/characters. The Student still couldn't read or decode words but was expected to be able to read passages.

The May 22, 2025, IEP demonstrates that the Student is a student with a specific learning disability and dyslexia. The Student's present levels demonstrate that the Student was administered the KTEA-3 and scored a 52 on reading comprehension and 42 on letter and word recognition. There was no testimony regarding how to interpret this information during the administrative hearing. The IEP indicates that the Student's reading comprehension will continue to be addressed in his goals and that the score of 42 in letter and word recognition was in the average range and his skills were on grade level with respect to word recognition. The IEP contained one reading goal: "By the annual review date, when given a passage at the instructional level, [Student] will increase his ability to use strategies to increase his comprehension in a literary text, achieving 80% accuracy, as measured by student work samples and informal assessments, as implemented by Special Education Teacher and staff." The IEP does not indicate whether the Student was making any progress towards his goals.

None of the Student's IEP were "reasonably calculated to enable [the Student] to make progress appropriate in light of the [Student's] circumstances" nor did they "enable the [Student] to make progress." (*Andrew F.* 137 S.Ct. at 1001) While the School District engaged in an IEP meeting each year, the School District did not appropriately review the Student's goals to determine whether the student is making progress towards the goals set forth in the IEP nor were the Student's IEP revised to address any lack of progress towards the goals. (34 C.F.R. §300.324) This Hearing Officer finds that the failure of the School District to include goals that were appropriate for students diagnosed with dyslexia beginning from March 28, 2017, to May 14, 2024, resulted in a deprivation of the Student's educational benefits and as such, the School District denied the Student a FAPE. (*Id.*)

***Did the School District deny the Student a FAPE by failing to address the Student's achievement or lack of achievement towards the Student's goals in the Student's IEPs from March 28, 2017, through May 22, 2025, inclusive?***

This Hearing Officer finds that the School District denied the Student a FAPE because it failed to address the Student's achievement or lack of achievement towards his goals in the Student's IEPs from March 28, 2017, through May 22, 2025, inclusive. As previously stated above, the School District failed to create an IEP that was reasonably tailored to the Student's unique needs and failed to appropriately review the Student's progress towards his goals. While the School District created progress reports that indicated the Student was making progress towards the goals in his IEPs this Hearing Officer finds that the accuracy of those progress reports is questionable. The Student's present levels consistently indicated that the Student could not decode or encode words and could not read. Despite this, the School District prepared progress reports that indicated the Student was making progress towards his goals. How could the Student be making progress toward a goal which required him to identify the main theme/idea of a passage when he could not read that passage? Additionally, many of the IEPs failed to indicate whether the Student was making progress towards his goals nor did any ever indicate whether he had met any of the goals. No testimony was presented at the administrative hearing regarding the Student's goals or his progress towards meeting those goals. This Hearing Officer finds that the School District's failure to address the Student's achievement or lack of achievement towards his goals in the Student's IEPs from March 28, 2017, through May 22, 2025, inclusive resulted in a deprivation of the Student's educational benefits and as such, the School District denied the Student a FAPE. (*Id.*)

***Did the School District deny the Student a FAPE by failing to tailor the Student's goals in the Student's IEPs from March 28, 2017, through May 22, 2025, inclusive?***

For the reasons previously stated above, this Hearing Officer finds that the School District's failure to tailor the Student's goals in the Student's IEPs from March 28, 2017, through May 22, 2025, inclusive resulted in a deprivation of the Student's educational benefits and as such, the School District denied the Student a FAPE. (*Id.*)

***Did the School District deny the Student a FAPE by preventing the Parent/EDM from meaningfully participating in the process beginning from March 28, 2017, to May 2024?***

This Hearing Officer finds that the School District denied the Student a FAPE by preventing the Student's Mother/EDM from meaningfully participating in the development of the Student's IEP beginning from March 28, 2017, through May 14, 2024, and because the School District conducted IEP meetings without the Student's Mother or educational decision maker present. The Student's Foster Parents (1-4) did not have authority to act on behalf of the Student regarding the Student's educational needs. Nor did the School District appoint a surrogate parent for the Student when it could not locate the Student's Mother or EDM or any adult on behalf of the Student. These failures resulted in a loss of educational opportunity for the Student. (*Id.*) "Procedural violations that interfere with parental participation in the IEP formulation process undermine the very essence of the IDEA. An IEP which addresses the unique needs of the child cannot be developed if those people who are most familiar with the child's needs are not involved or fully informed." (*Id.*) In this case, it is clear that the Mother did not participate in the March 28, 2017, IEP, Adult 1 participated. (see Respondent's AH Exhibit 4, p. 5) The Mother did participate in the March 21, 2018, IEP. (see Respondent's AH Exhibit 5, p. 13) In July 2018 the Student entered foster care. (see Respondent's EH Exhibit 3) Neither the

Mother nor an educational decision maker or surrogate parent attended the March 18, 2019, IEP, however, Foster Parent 1 signed the IEP. (Respondent's AH Exhibit 6, p. 22) Neither the Mother nor an educational decision maker or surrogate parent attended the February 26, 2020, IEP, and no adult was present on behalf of the Student. (Respondent's AH Exhibit 7, p. 4) The September 30, 2020, IEP was created without a meeting, so no adult was present on behalf of the Student. (Respondent's AH Exhibit 8, p. 2, 14) No adult was present on behalf of the Student at the November 30, 2020, IEP meeting. (Respondent's AH Exhibit 9, p. 6) The Maternal Aunt was present at the April 26, 2021, IEP meeting. (Respondent's AH Exhibit 10, p. 9) No adult was present on behalf of the Student at the November 29, 2021, IEP meeting. (Respondent's AH Exhibit 11, p. 6) No adult was present on behalf of the Student at the November 18, 2022, IEP meeting. (Respondent's AH Exhibit 12, p. 8) No adult was present on behalf of the Student at the November 2, 2023, IEP meeting. (Respondent's AH Exhibit 13, p. 7) On December 9, 2024, the Prior Educational Decision Maker was appointed to the Student. On May 23, 2025, the EDM was appointed to represent the Student's educational interests after having previously been appointed the Student's Volunteer Education Advocate sometime in January 2025. There was a conflict between the prior order appointing the Prior EDM as the Student's educational decision maker and the role of the EDM because the EDM had been attempting to work with the School District regarding the Student. (Testimony of EDM, Respondent's EH Exhibit 3, p. 9-15) The EDM was present on behalf of the Student at the May 22, 2025, IEP meeting.

The term "parent" is defined to include the following individuals:

- (1) a natural, adoptive, or foster parent of a child (unless a foster parent is prohibited by State law from serving as a parent);
- (2) a guardian (but not the State if the child is a ward of the State);
- (3) an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative) with whom

the child lives, or an individual who is legally responsible for the child's welfare; or

(4) except as used in sections 1415(b)(2) and 1439(a)(5) of this title, an individual assigned under either of those sections to be a surrogate parent. (20 U.S.C. §1401(23)) (30 C.F.R. §300.30)

NAC 388.071 defines the term "parent" to include the following individuals:

1. A biological or adoptive parent;
2. A guardian generally authorized to act as a parent of the pupil or authorized to make educational decisions for the pupil, but not the State if the pupil is a ward of the State;
3. A person acting in the place of a biological or adoptive parent, including, without limitation, a grandparent, stepparent or other relative with whom the pupil resides or a person who is legally responsible for the pupil's welfare;
4. A surrogate parent appointed pursuant to NAC 388.283;
5. A foster parent, if the foster parent:
  - (a) Has an ongoing parental relationship with the pupil;
  - (b) Is willing to make the educational decisions required of parents pursuant to Part B of the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1411 et seq., and the regulations adopted pursuant thereto; and
  - (c) Has no interest that would conflict with the interests of the pupil; or
6. A person deemed to be a parent of the pupil pursuant to NAC 388.191.

NRS 432B.462 provides that "[a]s soon as possible after a petition is filed alleging that a child is in need of protection pursuant to NRS 432B.490 but no later than the date on which the disposition hearing is held pursuant to subsection 5 of NRS 432B.530, the court shall appoint an educational decision maker for the child." It goes on to provide that there is a rebuttable presumption that it is in the best interest of the child that the parent be appointed the educational decision maker. (NRS 432B.462(2)) If, however, appointing the parent is not in the best interest of the child, then the court may appoint someone else as the educational decision maker. These individuals can include the foster parent, a relative, a fictive kin, a guardian ad litem, or other person the court deems to be qualified. (NRS 432B.462(3)) An educational decision maker appointed pursuant to NRS 432B.462 is deemed to be the child's "surrogate parent" for the purposes of 34 C.F.R. §300.519. 34 C.F.R. §300.519 and NAC 388.285 requires a school district

to assign an individual to act as a surrogate parent when: (1) no parent can be identified; (2) the school district, after reasonable efforts, cannot locate the parent; (3) the child is a ward of the State; or (4) the child is an unaccompanied homeless youth.

In this case, an educational decision maker was not appointed for the Student until December 9, 2024, and then revised on May 23, 2025. The School District was aware that the Student was placed with Foster Parent 1 on July 13, 2018; Shelter 1 on February 10, 2020, Maternal Aunt and Uncle on February 15, 2020, Foster Parent 2 on March 14, 2022, Shelter 2 on January 5, 2024, Foster Parent 3 on April 4, 2024, and Foster Parent 4 on June 18, 2024. No evidence was presented that the Foster Parents or Maternal Aunt/Uncle were willing to make educational decision for the Student required under the IDEA. In some cases, the IEPs listed individuals who were not the Mother or appointed Foster Parents (1-4) (see Respondent's EH Exhibit 4, p. 4, listing Mother but p. 5 indicates that Adult 1 participated in the IEP meeting over the phone, also Petitioner's EH Exhibit 12, BS 121 listing Adult 2 and 3 as the "Foster Mother and Father" respectively)

The School District never appointed a surrogate parent as required by NAC 388.283 despite not being able to identify a parent or locate the parent. It knew that the Student had been placed in foster care, yet when it could not locate anyone to participate on behalf of the Student in IEP meeting, or any meetings regarding the Student, instead of appointing a surrogate parent, it held the meetings without anyone present to advocate on behalf of the Student. This Hearing Officer finds School District's prevented the Student's Mother/EDM from meaningfully participating in the development of the Student's IEP beginning from March 28, 2017, through May 14, 2024, which resulted in a deprivation of the Student's educational benefits and as such, the School District denied the Student a FAPE. (*Amanda J.* 267 F.3d at 892)

***Did the School District deny the Student a FAPE by failing to appoint the Student an educational surrogate beginning from June 6, 2018, to January 5, 2024?***

This Hearing Officer finds that the School District denied the Student a FAPE by failing to appoint the Student an educational surrogate beginning from June 6, 2018, through January 5, 2024, because the absence of an adult who was able to make educational decision on behalf of the Student resulted in a loss of educational opportunity for the Student. (*Id.*) As previously stated, 34 C.F.R. §300.519 and NAC 388.285 requires a school district to assign an individual to act as a surrogate parent when: (1) no parent can be identified; (2) the school district, after reasonable efforts, cannot locate the parent; (3) the child is a ward of the State; or (4) the child is an unaccompanied homeless youth. In this case, the School District knew that the Student had entered foster care in June 2018, and after that date, could not locate the Mother. Nor was an educational decision maker appointed to the Student. The Foster Parents (1-4) had no legal authority to act on behalf of the Student regarding his educational needs. No evidence was presented that indicated that the Foster Parents (1-4) nor Maternal Aunt/Uncle were willing to make educational decision for the Student required under the IDEA. This Hearing Officer finds that the School District's failure Student a surrogate parent for the Student resulted in a deprivation of the Student's educational benefits and as such, the School District denied the Student a FAPE. (*Id.*)

***Did the School District deny the Student a FAPE by conducting multidisciplinary team meetings and creating IEPs without a parent present beginning from March 21, 2018 to May 14, 2024?***

This Hearing Officer finds that the School District denied the Student a FAPE by conducting multidisciplinary team meetings and creating IEPs without a parent present

beginning from March 21, 2018, to May 14, 2024, because the failure of the School District to ensure that a parent, surrogate parent, or educational decision maker was present at each multidisciplinary team meeting and IEP meeting resulted in a loss of educational opportunity for the Student. (*Id.*) As previously addressed above, at each IEP meeting beginning from March 21, 2018, through and including May 14, 2024, neither the Mother nor a surrogate parent or educational decision maker was present at the meeting. Neither Adult 1 nor Foster Parent 1 had authority to act for the Student regarding his educational needs. At the time of the March 28, 2017, IEP meeting, the Mother was the only person who had the authority to act on behalf of the Student regarding his educational needs. The Mother participated in the March 21, 2018, IEP meeting. The Foster Parent 1 participated in the March 18, 2019, IEP meeting, but no evidence was presented that indicated that the Foster Parent 1 had agreed to make educational decisions on behalf of the Student. No adult participated in an IEP meeting after the March 18, 2019, IEP meeting until May 22, 2025.

The School District completed an MDT Report on February 27, 2017. The reevaluations were “waived” by foster parents who had no authority to make such decision on February 26, 2020, and November 28, 2022, and likely did not understand what they were waiving. (Respondent’s EH Exhibit 14) The absence of an adult with the authority to make educational decision required by the IDEA deprived the Student of educational benefits. The MDTs were never conducted despite the Student’s demonstrated inability to make progress on any goal set forth in his IEP. Yet the School District sent progress reports that indicated the Student was making progress towards the goals in his IEP, but no evidence was admitted to demonstrate that anyone received those progress reports or understood what they meant. The Student’s SETs continued to just go through the motions of crafting an IEP despite the Student consistently

demonstrating that he could not read. This Hearing Officer finds that by conducting multidisciplinary team meetings and creating IEPs without a parent present beginning from March 21, 2018, to May 14, 2024, the Student has been deprived of educational benefits and as such the School District has denied the Student a FAPE.

### ***Remedies***

In the Complaint, Petitioner presented two options regarding the requested remedies. Option 1 was to create a Special Needs Educational Trust in the amount of \$570,800 to cover the costs of the Student's compensatory education and educational supports. The trust would cover \$350,000 for seven years of structured literacy tutoring, \$67,200 for compensatory instruction in math, science, social studies, and writing, \$56,000 for extended-year remediation to accelerate recovery, \$15,000 for text-to-speech software, audiobooks, literacy applications, and adaptive devices, \$15,000 for comprehensive assessments in reading, writing, math, assistive technology, and transition planning, \$25,600 to support planning, study skills, and executive functioning through high school, and \$35,000 for professional fiduciary oversight for seven year. Option 2 was to place the Student in a private dyslexia boarding school for the remainder of his education. Option 2 requested 7 years of tuition, room and board, at an estimated cost of \$525,000 to \$630,000.

The Educational Consultant testified that her recommendation was for the Student to go to a private dyslexia boarding school for the remainder of his high school education, which is about 3.5 years (the Student is currently a freshman), plus approximately 2 years of structured literacy tutoring. She testified that there were two schools near where she was located in California that she was aware of—Frosting and Westmark. No evidence regarding the schools was presented. The Educational Consultant testified that she thought that the tuitions at the

schools was approximately \$48,000 for Frosting and \$67,000 for Westmark, but she was not sure about their costs. She also testified that the schools have a base in Orton Gillingham, but not every teacher is certified in Orton Gillingham. The Educational Consultant was clear that the Student required remediation to improve his reading abilities.

In closing arguments, Petitioner's Counsel revised the requested remedies seemingly based on the testimony of the Educational Consultant. Petitioner's Counsels requested remedies of either 2 to 3 years of private school education plus 2 years of structured literacy tutoring or 4 years of structure literacy tutoring. There is no evidence to demonstrate the costs of a private school, the Educational Consultant merely mentioned two schools but could not provide any details about the schools themselves, their curriculum, how that curriculum would specifically benefit the Student, the costs of such schools, or their accreditation. Based on the testimony of the Educational Consultant alone, and the brief mention in her report, this Hearing Officer cannot make a determination regarding the appropriateness of a private school for the Student or what the costs of a private school are. As such, this Hearing Officer declines to award a lump sum for use in private school as requested in Option 2.

While the Educational Consultant determined, and this Hearing Officer agrees, that the Student requires remediation to redress the Student's harm caused by the School District, there was no evidence presented regarding the requested remedy sought in Option 1 of the Complaint. The only evidence presented on the costs associated the remedies sought in Option 1 was from the Educational Consultant. The Educational Consultant testified that she charges \$225 per hour and that her hourly rate was lower than others in the field but there was no other testimony or evidence regarding the industry standard rate. As such, this Hearing Officer cannot award a lump sum as requested by the Petitioner in Option 1. This Hearing Officer can, however, require the

School District to provide or arrange for structured literacy tutoring for the Student to remediate the harm caused by the School District.

## **V. ORDER**

This Hearing Officer, having found that the School District did not meet its burden and finding in favor of the Petitioner for all issues, hereby ORDERS:

1. Within 30 days of the date of this Order, the School District shall provide or arrange for weekly structured literacy tutoring in a location that is close to where the Student is located to remediate the Student which must be provided by a state certified provider such as a special education provider, teacher, or reading specialist. Such provider must have experience in Orton-Gillingham methods. The Student must receive the structured literacy tutoring for 60-90 minutes 4 to 5 times per week. The certified provider shall determine the specific number of minutes required each day and whether the Student needs to receive the structured literacy tutoring 4 or 5 times per week. The structured literacy tutoring must be provided to the Student for a period of not more than 4 years from the date the services begin unless the Student's guardian/educational decision maker/surrogate parent elects not to continue the structure literacy tutoring.

## **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: 2/17/2024

Colleen Platt

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