

STATE OF NEVADA DEPARTMENT OF EDUCATION
REVIEW OFFICER DECISION

In the matter of

STUDENT by and through his¹ PARENTS,²
Petitioner-Appellant

v.

Perry A. Zirkel, State Review Officer

DISTRICT,
Respondent-Appellee

I. GLOSSARY OF ACRONYMS AND ROLES

As a prefatory matter, the acronyms that appear in this decision are as follows: ADHD = attention deficit hyperactivity disorder; BIP = behavior intervention plan; FAPE = free appropriate public education; FBA = functional behavioral assessment; FF = factual finding; IDEA = Individuals with Disabilities Education Act; IEP = individualized education program; IHO = impartial hearing officer; LRE = least restrictive environment; MDR = manifestation determination review; OCR = Office for Civil Rights (in the U.S. Department of Education); SEIF = special education instructional facilitator; and SRO = state review officer.

Additionally, for the sake of clarity, this decision uses “District” in place of “Petitioner” and “Parents” in place of “Respondent.”

¹ The terms “he,” “his,” “him,” “they,” and “them” are used generically herein instead of designating the actual gender of Student or the Parent(s).

² “Parents” is also used generically herein without differentiation of father, mother, or guardian and, thus, as to singular or plural.

II. PROCEDURAL BACKGROUND³

On November 19, 2025, the District received the Parents' complaint in this matter under the IDEA⁴ and Nevada's corresponding state statute and regulations.⁵ After a status conference, a prehearing conference, and various other prehearing communications, the IHO conducted hearing sessions on January 14 and 15, 2026. (IHO documents).⁶ The Parents requested, and the IHO arranged for, an interpreter for their testimony.⁷

On February 2, 2026, the IHO issued a final decision that ruled in favor of the District. (SRO-1). For the first issue, which in summary was whether the District violated Child Find as far back as November 19, 2023, the IHO concluded that the Parents knowingly revoked IDEA protection for the Student in November 19, 2023 and did not seek an IDEA reevaluation for the entire period at issue. For the second issue, which is whether the District's MDR determination erred as a matter of law, the IHO dismissed the Section 504 challenges to the MDR for lack of subject matter jurisdiction and ruled that the District did not violate the IDEA based on the valid revocation and the related MDR regulation.⁸

On March 1, 2026, based on receiving the Parents' appeal of the IHO decision on that

³ The record in this matter includes the four sets of exhibits: (a) IHO "Pleadings" and "Correspondence" (collectively referred to as the IHO documents because they are not separately numbered and tabbed); (b) District exhibits 1–28, referenced herein with a "D" rather than an "R"); (c) Parent exhibits 1–29; and (d) SRO exhibits 1–6 (including this decision as SRO-7). The record also includes a transcript for the two hearing sessions. The citations to the transcript are "Tr. at [page number(s)]," because the page the pagination is consecutive across the two volumes. Cross references in this decision are, per legal citation style, via "*supra*" (above) or "*infra*" (below) to identified footnotes or parts of the text.

⁴ 20 U.S.C. §§ 1401 *et seq.*; 34 C.F.R. §§ 300.1 *et seq.*

⁵ NEV. REV. STAT. §§ 388.419 *et seq.*; NEV. ADMIN. CODE §§ 388.001 *et seq.* This decision refers to this corollary state statute and administrative code only to the limited extent that they add in relevant respect to the IDEA legislation and regulations.

⁶ These documents are not numbered as IHO exhibits but are listed and contained as the first segment of the IHO's certification of the record.

⁷ Based on the mutual efforts of the parties' attorneys (e.g., Tr. at 157–62, the interpreter was apparently in person rather than a telephonic service (e.g., *id.* at 168).

⁸ 34 C.F.R. § 300.534(c)(1) (providing an exception to the deemed to know" protection for a MDR "if the parent of the child . . . refused special education services under the IDEA").

day (SRO-2), the state superintendent appointed me as the SRO, specifying the due date for my decision as April 2, 2026. (SRO-3).

On March 2, I sent the parties an email to schedule a status conference. (SRO-4, at 3–5).

On March 10, I conducted the status conference with the parties, finding that neither party took issue with the procedures of the hearing or sought additional evidence and setting March 23, 2026 as the deadline for their written arguments. (*Id.* at 1).

On March 23, the Parents (SRO-5) and the District (SRO-6) timely submitted their written arguments.

III. STANDARD OF REVIEW

The standard of review for a SRO under the IDEA is for an “independent decision” after examining the entire record.⁹ The SRO finds persuasive the interpretation of the Third Circuit in *Carlisle Area School District v. Scott P.*, 62 F.3d 520 (3d Cir. 1995), requiring “plenary review” with one narrow exception: “[the SRO] should defer to the hearing officer's findings based on credibility judgments unless the non-testimonial, extrinsic evidence in the record would justify a contrary conclusion or unless the record read in its entirety would compel a contrary conclusion.” (*Id.* at 529).¹⁰

IV. ISSUES¹¹

1) Whether the Parents’ revocation was fatally flawed based on language access?

⁹ 34 C.F.R. §§ 300.514(b)(2)(i) & 300.514(b)(2)(v).

¹⁰ In this decision, the Third Circuit explained that “beyond this rather narrow class of record-supported, credibility-based factual findings, we think that, to give the statute's language about ‘independent’ decisions effect, the [SRO] must have much more leeway in reviewing other non-credibility based findings of the hearing officer.” *Carlisle Area Sch. Dist.*, 62 F.3d at 528–29 (citing Perry A. Zirkel, *The Standard of Review Applicable to Pennsylvania’s Special Education Appeal Panel*, 3 WIDENER J. PUB. L. 871, 892 (1994). *See, e.g.*, *Amanda J. v. Clark Cnty. Sch. Dist.*, 267 F.3d 877, 888–89 (9th Cir. 2001); *HPB v. Washoe Cnty. Sch. Dist.*, 2024 WL 4368227 (D. Nev. Sept. 30, 2024).

¹¹ The Parents’ appeal raises an overlapping and overly complicated array of alleged legal errors, which boil down to challenges to (1) the validity of the 2022 revocation in relation to language access, and (2) the extent of the effect of the revocation on Child Find.

2) Whether the District violated the Child Find under the IDEA?

V. FINDINGS OF FACT¹²

1. The Student was born on September 2, 2008. (P-1, at 1).

2. On February 9, 2015, when the Student was in grade 1, the District determined that the Student was eligible for special education services under the IDEA. (*Id.*)

3. The January 26, 2018 IEP for grade 4 identified the Student’s primary language as Amharic, and it indicated “interpreter needed” for the Parents. (*Id.*). The Parents’ primary language is Amharic. Their ability to communicate in English is limited, specifically to oral-aural skill at a very basic level.¹³ They can only read and write either language to a more limited extent that approximates functional illiteracy (E.g., Tr. at 237–39).¹⁴

4. The March 23, 2021 IEP for grade 7 identified the Student’s primary language as English, and it did not indicate a need of an interpreter for the Parents. (P-3, at 1). However, the Parents requested and received a translator for this IEP meeting. (P-19, at 3).¹⁵ The IEP identified the Student’s placement as a District school for special education students with socio-emotional struggles (P-3, at 1; Tr. at 182).¹⁶ The Student’s attendance was via remote instruction

¹² Based on the applicable review standard, these factual findings are independent of those of the IHO with the limited exception of those warranting deference due to being credibility-based. Moreover, for the sake of cross-referencing, they are numbered here for selected subsequent cross-referencing (with the prefix “FF #”) in the “Legal Conclusions” section.

¹³ Not finding extrinsic evidence in the record to compel a contrary conclusion, I defer to the IHO’s credibility-based FF that the Parents overstated the limited level of English aural-oral proficiency, but nevertheless conclude that they meet the threshold level of being much more conversant in their native language and only able to be fully functional for communicating in spoken or written English with workarounds, such as their lay advocate and friends.

¹⁴ Evidencing the District’s recognition at the time of the August 30, 2019 that Parents’ primary language was Amharic, although not either actual or constructive knowledge of their negligible literacy, the District provided the entries, although not the template items, in Amharic. P-2.

¹⁵ Due to the lack of qualified interpreters in Amharic, the District used a telephone service called Language Line, which presented some difficulties due to dialect and technological difficulties. E.g., Tr. at 193–95 & 251.

¹⁶ The Parents filed for a due process hearing to challenge this placement on grounds of LRE as well as FAPE, but they lost at both the IHO and SRO levels. E.g., *id.* at 271. The Parents requested and received an interpreter for that due process hearing (e.g., *id.* at 254). However, they previously had initiated similarly unsuccessful IDEA due process hearings in 2016 and 2017 without interpreter services. E.g., *id.* at 214. They also

for that entire school year due to the COVID-19 pandemic. (Tr. at 284).

5. For grade 8, which started on August 9, 2021, the Student was a “no show” in the District records. (P-24, at 1). Because the Parents perceived the assigned special education school as being like a prison, including supposedly putting the students in chains (Tr. at 244 & 278), they enrolled the Student in a parochial school, which ultimately disenrolled him for disciplinary reasons. (E.g., *id.* at 254 & 277).

6. For grade 9, the Parents attempted to enroll the Student in the regular high school closest to their home, but they were directed to the special education placement in his IEP. (*Id.* at 254–55).

7. On August 11, 2022, based on their aforementioned abhorrent perception of the IEP-designated placement (FF #5), the Parents sent the District a written revocation of special education services for the Student. (D-21, at 2).¹⁷

8. On August 12, the District sent the Parents a PWN confirming receipt of their revocation (*Id.* at 3). The PWN informed the Parents that “your child will no longer have the protection and rights delineated by the [IDEA].” The specified examples included the following: “If your child engages in a behavior that may result in disciplinary action, you child will be disciplined as a special education student” and “If at a future date, you request that special education services be reinstated, the request will be treated as an initial referral for special education eligibility.” (*Id.* at 4.). The District representative who sent the PWN, along with the

subsequently filed an OCR complaint and a due process hearing under Section 504 in 2022. *Id.* at 216. In late November 2022, the District arranged for oral translation via Language Line for the Parents, presumably for the Section 504 hearing. P-8.

¹⁷ The Parents’ lay advocate, who communicated with them via simple English and who attended most of the previous IEP meetings since 2015 and all the subsequent Section 504 meetings, advised against revocation but assiduously left all the decisions to them. E.g., *id.* at 189–90, 202, 225, 240, and 257. Once they made the revocation decision, the advocate provided the Parents with a template for communicating it in writing to the District. *Id.* at 217.

procedural safeguards notice, provided it only in English after checking the revocation request and the Student's most recent IEP, which did not evidence any indication of a need for translation. (Tr. at 97). Said representative did not check earlier accessible records, which indicated the Parents' need for translation services. (*E.g., id.* at 99–100 & 103).

9. As a result of the revocation, the Student's placement changed to a regular high school in the District for grade 9. (D-5/P-24). The enrollment information that the Parents entered in the registration system indicated English as the Student's and Parents' primary language. (D-28; Tr. at 39–40).¹⁸

10. Starting early in the school year, then seemingly attributable to the transition, the Student evidenced aggression, self-regulation, and insubordination. (*E.g., Tr.* at 30–31).

11. On September 7, 2022, the Student received a 4-day suspension for fighting, with an attendant telephone discussion between the high school principal and the Parents. (D-26).

12. On September 23, 2022, the District held a Section 504 meeting, which determined that the Student was eligible based on ADHD for a 504 plan, which provided for the accommodations of preferential seating, a pressure pass, and extended time on tests. (D-9/P-7).¹⁹

13. In March 2023, the principal emailed the Parents about a bullying incident and a safety plan. (D-26).

¹⁸ The school principal's several email exchanges with the Parents for the ensuing 3.3 years were in English, and the Parents did not indicate to the principal any difficulty with understanding her emails and did not request an Amharic translator. Tr. at 45–46. Additionally, both assistant principal #1 and the school counselor, who each attended several meetings with the Parents, communicated with them not only in writing but also orally in English, with receiving any request for a translator. *Id.* at 65–66 & 151. The advocate, who did not speak or read Amharic, assisted the Parents with the communications at most such meetings. *Supra* note 17. Although likely not known by District personnel, the Parents relied on friends, who were English-only readers and speakers, and occasionally the Student to help them understand and, via cutting and pasting, prepare emails and other documents for not only written communications with District representatives but also other formal transactions, such as purchasing a house and arranging for a mortgage. *E.g., Tr.* at 191, 239– & 274. The Parents relied on their limited, basic ability in English for employment. *Id.* at 268–69.

¹⁹ The school counselor asked the Parents whether they wanted an interpreter, and they declined. *Id.* at 147.

14. On April 17, 2023, the District issued one of a series of BIPs for the Student. (D-19).
15. On June 16, 2023, the District completed an FBA for the Student. (D-27).
16. On September 19, 2023, during grade 10, the District held another Section 504 meeting, which recognized his struggles, such as staying on task, interactions with peers, and sleeping in class. The number of accommodations expanded from 3 to 12, including “weekly social-emotional support from a counselor as outline in the BIP.” (D-15/P-10). The District offered the addition of a 1:1 adult escort during unstructured parts of the school day. The Parents refused, insisting that the Student be treated like other general education students. (Tr. at 153).
17. On March 1, 2024, the District issued another BIP for the Student. (D-18).
18. For the 2023–24 school year (grade 10), the Student’s attendance (absenteeism and tardiness) and his academic progress toward graduation were poor. (E.g., D-4; D-6; P-28). His behavior was persistently problematic. (E.g., D-20; P-18). The District provided periodic communications to the Parents about these issues. (E.g., D-23; D-24).
19. For grade 11 (2024-25 school year), the District held meetings and continued the previous 504 plan. (D-14/P-11; D-13, D-12; D-11).
20. The January 17, 2025 version of the Student’s BIP included a crisis plan that called for directing him to “go to a trusted adult and/or use cool down strategies in the counseling office” and if escalation occurs, for sending him to “deescalate in the Student Success Office with a campus security monitor or other adult escort.” (D-16/P-12).²⁰
21. On April 22, 2025, the District conducted another Section 504 meeting, which continued the same accommodations. (D-10).
22. For the 2024–25 school year (grade 11), the Student’s attendance, academic progress

²⁰ The trusted adults for this purpose include the Student’s school counselor and one of the assistant principals (herein referred to as assistant principal #1). *Id.* at 53.

toward graduation, and behavior continued to be poor, as periodically communicated to the parents (e.g., D-3; D-6; P-28; P-18; D-23; D-24), although there was some improvement compared to the previous year (Tr. at 34–35 & 118–19).

23. On September 23, 2025, the District issued another BIP for the Student. (D-17). The crisis plan was revised to replace the Student Success Office with the counseling office as the designated safe space for deescalation. (*Id.*; Tr. at 78–79).

24. Also on September 23, the District conducted a 504 meeting for grade 12 that continued the same accommodations of the previous year's 504 plan. (D-9/P-13). At the meeting the Parents indicated a potential interest in re-instituting IDEA services. (E.g., Tr. at 143, 226, & 263). Assistant principal #2 promptly followed up with an email to the Parents connecting them with the school's SEIF to answer any questions about the applicable process for doing so. (P-15). The Parents did not respond to the District's offer. (E.g., Tr. at 64).²¹

25. The aforementioned pattern of attendance, academic, and behavioral problems continued during this first part of grade 12, with periodic notification to the Parents (e.g., D-3; D-6; P-28; P-18; D-23; D-24), although with some improvement in attendance (Tr. at 33).

26. On October 8, 2025, a campus security monitor observed the Student in the Student in the hall punching a wall and directed him to go to the Student Success Office. Instead, swearing loudly and continuing to be agitated, the Student went to the school library and further escalated despite receiving the prompts in his BIP, causing the library to be cleared. Continuing to scream and hit school property, the Student made a threat to assistant principal #2. Then the Student proceeded to the counseling office in a continued escalated level, causing the office to be

²¹ Additionally, in at least 3 previous meetings the school counselor encouraged the Parents to consider the reinstating the IDEA process, but they consistently refused, insisting that the Student remain in general education and treated like any other student. *Id.* at 131–32.

cleared. His school counselor and assistant principal #1 were gradually able to calm the Student,²² whereupon he reiterated his threat to beat up the assistant principal #2 and said he would continue to act in the same way in a future similar situation. (E.g., P-18, at 1; Tr. at 55–56, 79–80 & 127).

27. On October 20, 2025, the District conducted an MDR under Section 504, in which the Parents and Student participated.²³ The determination, despite the objections of the Parents and their lay advocate, was that the Student’s aggressive and threatening conduct on October 8 was not a manifestation of his disability. (D-8/P-16; Tr. at 57–60).

28. Although the Section 504 MDR recommended expulsion, the District transferred the Student to another school. (Tr. at 62–63).

29. On February 2, 2026, as stated above,²⁴ the IHO issued the final decision in this case.

30. On February 27, 2026, per the parties’ stipulation, the Parents consented to an IDEA eligibility evaluation of the Student, which is scheduled to be completed in early May. (SRO-4, at 1).

VI. CONCLUSIONS OF LAW

Language Access

In their brief, the Parents argue that the written revocation was procedurally flawed because the required PWN did not meet the applicable IDEA regulatory requirement of language access. (34 CF.R. § 300.300(a)(4)(i)). Specifically, the PWN must be in the Parents’ native language “unless it is clearly not feasible to do so.” (*Id.* § 300.503(c)(ii)). The IDEA regulations

²² *Id.* (designation of school counselor and assistant principal #1 in the crisis plan in the Student’s BIP).

²³ The Parents actively participated in English and did not express any difficulty with understanding or any need for an interpreter. *Id.* at 129. Similarly, in the previous Section 504 meetings, the Parents did not request interpreter services. *Id.* at 130.

²⁴ See “Procedural Background” section *supra*.

define “native language” for an individual who is limited English proficient as “[t]he language normally used by that individual.” (*Id.* § 300.29).

The Parents in this case have limited English proficiency. (FF ##3&4).²⁵ As a result, the contention in their brief in this appeal is that the IDEA regulations and cited case law require the District to “to take steps to ensure that the notice is translated orally into the [Parents’] native language.” This conclusion is not without difficulties.

For the regulations, the difficulties are that (1) although the evidence is preponderant that the District knew or had reason to know that the Parents were fluent in their native language of Amharic (e.g., FF # 4 & *supra* notes 15–16), it is questionable whether the District knew or had reason to know at the time of the revocation that the Parents were largely illiterate in Amharic (e.g., *supra* notes 14 & 18); and, even so, (2) their cited regulation (34 C.F.R. § 300.503(c)(ii)) may be interpreted to only apply if Amharic is not a written language, which is apparently not the case.²⁶

As for the cited court cases, the first one is an unpublished federal district court decision in another jurisdiction that relied on a statutory requirement based directly on the parent’s native language without expressly referring to limited English proficiency and not necessarily applicable to revocation of services.²⁷ Moreover, it was specific to written translation, not the more difficult interpretation and application of the oral variant in the instant case. Finally, its second-step ruling of denial of FAPE could be interpreted as based on the denial of ability to understand and meaningfully participate in the IEP process²⁸ or the cumulative effect of this

²⁵ The definition of limited English proficient in the regulations are not helpful, because it is specific to students, not their parents. 34 C.F.R. § 300.27 (referring to 20 U.S.C. § 7801(20)).

²⁶ The opposing and more stretched interpretation is that “other mode of communication” refers to not just “other” than the direct alternative of the native language but also “other” than the written form of the native language for individuals who are functionally illiterate in their native language.

²⁷ *Y.A. v. N.Y.C. Dep’t of Educ.*, 2016 WL 5811843 (S.D.N.Y. Sept. 21, 2016); 20 U.S.C. § 1415(d)(4).

²⁸ *Id.* at *14.

violation along with others.²⁹ Yet, neither of these second-step conclusions applies in the instant case.³⁰ The second case is a published federal district court from another jurisdiction that is limited to denial of dismissal of an IDEA lawsuit against a state education agency challenging its regulation defining limited English proficiency in the context of IEP meetings.³¹ The only part that is even remotely relevant is the application of the IDEA regulation specific to interpreters at IEP meetings in concluding that the plaintiffs met the redressability criterion for standing.³² The court did not at all address, even to the inconclusive extent of its ruling on standing, the second-step in the required analysis of procedural FAPE violations.³³ Other case law is rather negligible in its import.³⁴

Using a liberal common-sense rather than strict constructionist interpretation of the regulations as applied to the circumstances of this case,³⁵ I conclude that (1) the PWN was procedurally flawed because providing oral translation in Amharic was not clearly infeasible (*supra* notes 7 & 15–16), but (2) the Parents nevertheless made an informed revocation decision.³⁶ The evidence is clearly preponderant that the Parents understood the import of this decision with the assistance of others, including the advocate who advised against it due to its consequences. As with other weighty matters, such as in their employment, purchase of a home,

²⁹ *Id.* at *15.

³⁰ See *infra* note 38 and accompanying text.

³¹ *Garcia v. Morath*, 624 F. Supp. 3d 690 (W.D. Tex. 2022), *adopted*, 2022 WL 163978 (W.D. Tex. Jan. 10, 2023).

³² *Id.* at 700 (citing 300.3022(e))

³³ 20 U.S.C. § 1415(f)(3)(E)(ii).

³⁴ See, e.g., *T.R. v. Sch. Dist. of Phila.*, 4 F.4th 179 (3d Cir. 2021); *H.P. v. Bd. of Educ. of Chi.*, 385 F. Supp. 3d 623 (N.D. Ill. 2019).

³⁵ Although the state law that puts the burden of production and persuasion on the District (NEV. REV. STAT. § 388.467) and the IDEA regulation that requires the District to “ensure” understanding of the PWN (34 C.F.R. § 300.503(c)(2)) provide ancillary support, it would seem reasonable to expect public agencies, where feasible, to provide oral translation to parents who are functionally illiterate in their dominant language but with limited communication ability in English of the consequences of this critical confirmation decision. Conversely, this reasonable approach does not in any way prevent the District from using technology for this oral communication.

³⁶ It is logical that just as the consent for services must be informed (34 C.F.R. § 300.00(a)), the revocation of that consent must meet this same standard.

previous IDEA communications with the District, and the long line of prior dispute resolution proceedings, the Parents’ basic English skills and the assistance of English-only friends provided the requisite knowledge for a deliberate and voluntary revocation decision. Based on the Parents’ repellent perception of the applicable placement as a result of the aforementioned (*supra* note 16) IHO and SRO decisions and the Parents’ adamant insistence on having the Student treated like other “regular” students, they had two options after their unsuccessful unilateral enrollment at the parochial school for grade 8 and their unsuccessful attempt to directly enroll him at the nearby high school—(1) to continue with the IDEA IEP process, which would start with resuming the previous placement at the special education school, or (2) to forego IDEA services via written revocation, which would enable enrollment at the zoned high school.³⁷ Whether or not the Parents’ discretionary and absolute choice of the second option was optimal from a presently retrospective or legally nuanced perspective, it was their sufficiently informed decision in the circumstances of this case, including the specific PWN.

In sum, the District’s failure to provide the PWN via an oral translation was a procedural violation that did not significantly impede the Parents’ opportunity for meaningful decisionmaking.³⁸ Thus, the violation was procedural but not fatal, and the only remedy within the equitable authority of the IHO and, thus, the SRO, was a purely prospective order to rectify the violation.³⁹

³⁷ For their deliberate choice between their two perceived alternatives, see, e.g., Tr. at 257, 263, & 278.

³⁸ 20 U.S.C. § 1415(f)(3)(E)(ii)(II). The alternative of substantive loss to the child is not applicable in the context of a duly informed revocation, given its absolute effect of being beyond the authority of the IHO/SRO process. 34 C.F.R. § 300.300(b)(4)(ii). Parents have autonomous rights under the IDEA. See, e.g., *Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516 (2007). For informed and, thus, effective revocation, parental rights are controlling, with student substantive loss of benefit/progress being intrinsically immaterial.

³⁹ *Id.* § 1415(f)(3)(E)(iii). For the affirmative application of this authority, see, e.g., Perry A. Zirkel, *Adjudication under the Individuals with Disabilities Education Act: Explicitly Plentiful Rights But Inequitably Paltry Remedies*, 56 CONN. L. REV. 201 (2023).

Child Find

The Child Find issue is particularly difficult. The 2008 IDEA regulations, which were largely limited to revocation of parents' consent for services, were obviously based on reinforcing the role of parental rights in the IDEA framework.⁴⁰ The effect is rather absolute and all-encompassing.⁴¹ The only clearly inferable reversal of the revocation is for the parents to change their mind and request an eligibility evaluation.⁴²

Yet, the preexisting Child Find obligation, which is based in part on regulations and more specifically on extensive case law, appears to directly conflict with this absolute effect. The parties have not cited, and I have not found, any judicial rulings that determine the effect of parental revocation and Child Find. The agency guidance accompanying the regulations, which is not binding, takes the position that Child Find continues to apply after revocation but does not at all address its operation.⁴³ For example, taken literally, this interpretation would apply the day after revocation takes effect. The only applicable case law appears to be limited to one or two hearing officers, which are not at all binding seem to agree that Child Find continues to apply but are neither specific nor strict in its application against school districts.⁴⁴

Yet, the regulations tend to suggest a restrained approach in the application of Child Find

⁴⁰ 73 Fed. Reg. 73,006 *et seq.* (Dec. 1, 2008).

⁴¹ 34 C.F.R. § 300.300(b)(4)(i)-(iv).

⁴² 73 Fed. Reg. at 73,009–73,010 (“If a child experiences academic difficulties after a parent revokes consent to the continued provision of special education and related services, nothing in the Act or the implementing regulations would prevent a parent from requesting an evaluation to determine if the child is eligible, at that time, for special education and related services.”).

⁴³ *Id.* at 73,012 (“Children who have previously received special education and related services and whose parents subsequently revoke consent should not be treated any differently in the child find process than any other child”).

⁴⁴ Houston Indep. Sch. Dist., 114 LRP 44750 (Tex. SEA 2014) (ruling in favor of the district, interpreting child find to only apply to reasonable suspicion of “new and different needs for services”); Jefferson Cnty. Bd. of Educ. 110 LRP 2743 (Ala. SEA 2009) (ruling in favor of the district, concluding that “it appears cross purpose to anticipate that the parent can turn on and off the services like a water faucet. Rather, while the [district] does in fact continue to have duties under Child Find, the timing and response by the [district] to the parents’ request for services were prompt and appear to fulfill [that] duty”).

in the wake of valid revocation. For example, the deemed-to-know regulation for MDRs appears to narrow the multiple potential indicators for Child Find to only three and to expressly exclude revocation from this protection, thus avoiding a last-minute attempt for parents to, in effect, “have [their] cake and eat it too.”⁴⁵ Similarly, for the culminating step of Child Find’s ongoing obligation in the wake of reasonable suspicion of eligibility, the regulations, provide ad hoc latitude for districts to secure the requisite consent via “reasonable efforts.”⁴⁶

Assuming *arguendo* without definitively deciding that Child Find continues to apply in the wake of effective revocation, it is my overall conclusion that the District did not violate this obligation. As a primary matter, its application must give due priority to the effect of parental revocation; otherwise, Child Find would start to endanger the purpose of revocation soon after its effective date. Rather, in the absence of definitive authority, the appropriately restrained application of Child Find would be based on multiple factors for the reasonable timing of applying its triggering element of reasonable suspicion. These reasonably determined factors would likely include but not limited to (a) the length of time since the date of revocation; (b) whether the reasonably suspected disabilities are new and different; (c) whether the district took affirmative steps to address the student’s needs in general education in the interim, and (d) whether the district made reasonable efforts to obtain consent, which in certain circumstances may call for repeated informal inquiries. In this case, (a) the 3.3 years since the revocation was unduly long compared, for example, with the respective 1-year and 3-year timeline for IEPs and reevaluations; (b) the Student’s behavioral and academic difficulties continued to fit a rather uniform pattern rather than any effective indications of a different disability classification; (c) the District took rather extraordinary continuing affirmative steps to address the Student’s needs in

⁴⁵ 34 C.F.R. § 300.534(b)(1)-(3) & 300.534(1)(ii).

⁴⁶ *Id.* § 300.300(a)(3).

general education, including several successive Section 504 meetings and BIPs along with attendant diligent implementation efforts on the part of counselors and other personnel, and (d) the counselor's repeated informal suggestions and prompt follow up to the Parents' belated departure from consistent and complete adavance counts, in effect, at least as partial credit. In this case, the carefully considered balance these factors weigh preponderantly, although not strongly, in favor of the District. Secondly, a Child Find violation is procedural rather than substantive.⁴⁷ Yet, at the time of the hearing (as well as at the time of this decision per FF #30), the Student had not undergone the requisite evaluation to undo the revocation. Thus, there was no second-step loss. Indeed, in the absence of eligibility, there was arguably no foundation for any relief.⁴⁸

Remedy

As a result of the procedural violation specific to language access, a purely procedural order is equitably appropriate. Specifically, the District shall no later than June 30, 2026 provide to the personnel who were responsible for providing the Parents with the August 12, 2022 PWN a training session and, in case of changes since then, the personnel at same high school and in the central administration with that responsibility. The subject of the training is the need and alternative means for oral translation of revocation PWNs to parents whose native language is not English and who are functionally illiterate in their native language upon receiving their written revocation of service.

DECISION AND ORDERS

The IHO's decision is partially affirmed and partially reversed. The District shall no

⁴⁷ See, e.g., *D.A. v. Houston Indep. Sch. Dist.*, 629 F.3d 450, 453 (5th Cir. 2010); *Bd. of Educ. of Fayette Cnty. v.L.M.*, 478 F.3d 307, 313 (6th Cir. 2007).

⁴⁸ See, e.g., *D.G. v. Flour Bluff Indep. Sch. Dist.*, 481 F. App'x 887, 893 (5th Cir 2012) ("IDEA does not penalize school districts for not timely evaluating students who do not need special education.").

later than June 30, 2026 provide to the personnel who were responsible for providing the Parents with the August 12, 2022 PWN a training session and their successors at the school and headquarters level on the need and alternative means for oral translation of revocation PWNs to parents whose native language is not English and who are functionally illiterate in their native language upon receiving their written revocation of service.⁴⁹



Dated: April 1, 2026

Perry A. Zirkel, State Review Officer

NOTICE OF APPEAL RIGHTS

The decision of this SRO is final unless a party appeals the decision. A party may appeal from the decision of this SRO by initiating a civil action in a court of competent jurisdiction within ninety (90) days receipt of this decision (NAC § 388.315).

⁴⁹ Alternatively, as with such cases more generally, the parties have the option of promptly agreeing on a different remedial resolution of this case.