

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

In the Matter of

**FINDINGS OF FACT, DECISION
AND ORDER**

STUDENT¹, by and through Parent
Petitioner,

v.

Hearing Officer: Audrey J. Beeson

SCHOOL DISTRICT

Respondent

I.

INTRODUCTION AND PROCEDURAL HISTORY

The following synopsis of the prehearing proceedings that took place in this matter is in chronological order. On December 2, 2025, the School District (hereinafter “LEA” or “Respondent”) received Petitioner’s *Due Process Complaint* (hereinafter “Complaint”).² This Impartial Hearing Officer (hereinafter “IHO”) was appointed on or about December 5, 2025.³ Respondent’s *Response to Petitioner’s Due Process Complaint* (hereinafter “Response”) was submitted on December 12, 2025.⁴ A *Notice of Status Conference, Status Conference Agenda, Preliminary Order, Hearing Process Guidelines, & Rights of Parties* was issued on December 16, 2025.⁵ A *Status Conference Report and Order and Notice of Second Status Conference* was issued on December 31, 2025.⁶ A *Second Status Conference Report and Order and Notice of Third Status Conference* was issued on January 12, 2026.⁷ The *Third Status Conference Report and Order* issued on January 22, 2026 granted Petitioner’s oral motion to continue the decision date for a period of at least 60 days for good cause, as Petitioner was in the process of retaining counsel to engage in negotiations on Petitioner’s behalf. The decision date was continued from February 15, 2026 to April 22, 2026. District was

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

² HO-1

³ HO-2

⁴ HO-3

⁵ HO-4

⁶ HO-5

⁷ HO-6

ordered to provide the relevant Individual Educational Programs (IEPs) to the IHO no later than close of business that day.⁸ A *Notice of Prehearing Conference* was issued on January 22, 2026.⁹ On January 23, 2026, the District provided the IHO with a November 21, 2025 IEP. In preparation for the prehearing conference, the IHO reviewed the November 21, 2025 IEP and prepared a preliminary draft of the issues that included reference to a previously revised IEP dated March 27, 2025 (which was noted in the November 21, 2025 IEP.) A Prehearing Conference was held on March 16, 2025. The parties confirmed that the March 27, 2025, noted in the November 21, 2025 IEP, was the current IEP and the issues were agreed upon by the parties. The March 27, 2025 IEP was not provided to the IHO prior to the hearing. On March 17, 2026, Petitioner provided a proposed list of witnesses for the hearing.¹⁰ A *Prehearing Conference Report and Order* was issued on the same day.¹¹ An *Amended Prehearing Report and Order* was issued on March 19, 2026 correcting the start time for the first day of the hearing.¹² The *Prehearing Conference Report and Order* and the *Amended Prehearing Report and Order* included information that Student is currently attending School 1, therefore Petitioner's request that Student be immediately returned to School 1 pending the decision of this due process is moot.¹³

On March 25, 2026. Respondent's proposed witness list¹⁴ and the parties' 5-business day disclosures were exchanged. On March 25, 2026 Petitioner requested a postponement of the hearing. Respondent objected to the request. This IHO issued an *Order Denying Motion for Second Continuance*¹⁵ that same day. Thereafter, Petitioner requested that this IHO issue subpoenas for all of Petitioner's proposed witnesses. The untimely request was denied, as this IHO does not have discretion to issue subpoenas only five business days prior to the hearing and the parties were placed on notice of the deadline to request the same in the *Prehearing Report and Order* and the *Amended Prehearing Report and Order*.¹⁶

⁸ HO-7

⁹ HO-7

¹⁰ HO-10

¹¹ HO-9

¹² HO-11

¹³ HO-9; HO-11

¹⁴ HO-12

¹⁵ HO-13

¹⁶ HO-14

A hearing was held virtually on April 1, 2026 and April 2, 2026. It was a closed hearing. A Court Reporter was present keeping a record of the evidentiary hearing. Petitioner was not represented by counsel. Respondent was represented by their counsel.

After the opening statement by the IHO, both parties confirmed that this IHO was not missing any prehearing correspondence that should be admitted as a hearing officer exhibit. Each party made an opening statement. During Respondent's opening statement, Respondent stated Student no longer needs placement in a special/behavioral school based on the improvement made by the student since January 2026.

The following witnesses testified for Respondent: Principal and Special Education Instructional Facilitator (SEIF). The following witnesses testified for Petitioner: Office Manager, Resource Teacher, School Psychologist, Social Worker, and Special Education Teacher 2.

The following exhibits were admitted into evidence by stipulation of the parties: Hearing Officer Exhibits HO-1 through HO-14. The following exhibits were admitted over the Respondent's objection: Petitioner's Exhibits P-5, P-6, P-10 and P-11. The following exhibits were admitted with no objection: Respondent's Exhibits R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-9, and R-13.

The record was closed on April 2, 2026. The decision is due on April 22, 2026.

II.

JURISDICTION

The due process hearing was held, and a decision in this matter is being rendered, pursuant to the Individuals with Disabilities Education Act (hereinafter "IDEA"), 20 U.S.C. § 1400 *et. seq.*, and its implementing regulations, 34 C.F.R. § 300 *et. seq.*, the Nevada Revised Statutes (hereinafter "NRS") 388, and the Nevada Administrative Code (hereinafter "NAC") 388.

III.

ISSUES

The issues to be determined and each of the parties' basic positions concerning each are as follows:

ISSUE ONE

Whether Student's 11/21/2025 Individualized Educational Program (IEP) Team predetermined Student's change in placement and failed to place Student in the Least Restrictive Environment

(LRE)? If so, did the predetermination and/or failure to place in the LRE result in a denial of a Free Appropriate Public Education (FAPE)?

ISSUE TWO

Whether Student's 11/21/2025 IEP Team properly considered data regarding behavioral interventions and coping skills when considering a change in Student's placement to a special school? If not, was there a denial of a FAPE?

ISSUE THREE

Whether District failed to implement Student's Behavioral Intervention Plan (BIP), behavior-related goals, and behavior-related supports, in Student's 03/27/2025 IEP? If so, did it constitute a material failure to implement that resulted in a denial of a FAPE?

ISSUE FOUR

Whether District failed to provide Student with necessary accommodations and supports related to the Student's transportation services in Student's 03/27/2025 IEP? If so, did the failure result in a denial of a FAPE?

ISSUE FIVE

Whether District failed to proactively review and revise Student's 03/27/2025 IEP and BIP when Student was not meeting behavioral expectations? If so, did the failure result in a denial of a FAPE?

Respondent's Position:

Upon information and belief, the IEP provided the Student with a FAPE, the District fulfilled its obligations under the Individuals with Disabilities Education Act (IDEA), the IEP Team reviewed the Student's educational records, including but not limited to the Multidisciplinary Team Reports, IEPs and other report and documentation.

Requested Relief:

1. Full and faithful implementation of Student's 3/27/2025 IEP, including all prescribed behavioral and transportation supports.
2. Proper and consistent implementation, training, and objective progress monitoring of Student's BIP.
3. Immediate completion of the evaluation form and all required evaluations with full parental involvement and input.
4. Provision of necessary staff training to appropriately support Student's behavioral and educational needs within the general education setting, including training on professional boundaries, de-escalation, and IDEA compliance, and clear disciplinary action for proven retaliation.
5. A follow up IEP meeting to be held after all evaluations are completed and sufficient BIP data has been collected, to determine if any future placement changes are genuinely necessary and justified by data.
6. Safety monitoring to ensure the safety of both students and staff, and to facilitate accurate data collection regarding behavioral incidents, including installing cameras in the classrooms and ensuring that cameras operating outside of the school are fully functional.

IV.

FINDINGS OF FACT

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

Background

1. Student is currently in the third grade in a Program 1 classroom at School 1¹⁷ and was found eligible for special education services on March 23, 2023.¹⁸ Student's current eligibility category is Health Impairment (HI) and Student's placement is in a self-contained program with 22% of the school day in the regular education environment. Student has a medical diagnosis of ADHD and Oppositional Defiant Disorder (ODD).¹⁹

¹⁷ Principal's testimony; R-3, R-1

¹⁸ R-5, page 9 of 36

¹⁹ R-5, page 19 of 36

2. Student entered the third grade with an IEP dated March 27, 2025. The IEP contains three Social/Emotional/Behavioral Goals.²⁰
3. The Social/Emotional/Behavioral Goals are: during a class discussion about relationships, when asked to identify one method that can be used to form a positive relationship, Student will verbally state two relationship-building strategies; when asked to predict how a given behavior might affect the feelings of others, Student will write an “If-then” sentence that includes the given behavior and one predicted emotion; and when given a written assignment to describe a physical response (increased heart rate, sweaty palms, flushed face) to a strong emotion from 2 options (anger or joy), and a written and illustrated anchor chart of physiological responses, Student will describe 3 physical responses the student has in reaction to a self-selected strong emotion.²¹
4. The March 27, 2025 IEP contains the following modifications, accommodations or supports: teacher will follow Student’s BIP (contained within the body of the IEP); repeat, clarify and simplify directions; check for understanding and provide immediate feedback; provide positive feedback for on task behaviors; allow the student to take tests in a small group setting; utilize rewards and individualized reinforcement programs to target social skills; allow the use of a designated calm area; allow the student to take a walk with a trusted adult; provide frequent breaks; Student can eat lunch in a modified alternative area with a trusted adult; can complete assignments in an alternative location with trusted staff; and have access to fidgets, putty, drawing or movement to help keep calm.²²
5. Student receives 10 minutes per week in direct transportation services from curb to curb. There are no accommodations or supports related to transportation services in the March 27, 2025 IEP.²³
6. The justification for Student’s placement in a self-contained program includes the following: Student has difficulty making and maintaining positive relationships; Student has failed to demonstrate appropriate and positive social/emotional/behavioral skills in the general education environment despite modeling, 1:1 support, and social skills instruction; and Student’s needs adversely affect the teaching and learning in the general education

²⁰ R-5

²¹ R-5, page 24 of 36

²² R-5, page 27 of 36

²³ R-5, page 31 of 36

environment as the deficits in social/emotional/behavioral skills are disruptive and require increased adult support which distracts the class.²⁴

7. Parent did not participate in the March 27, 2025 IEP meeting and tried unsuccessfully to join the meeting. Parent communicated with the vice principal via email about thirty-eight minutes after the meeting was scheduled to begin. The vice principal informed Parent that the team waited thirty minutes before they logged out of the meeting.²⁵

First Semester 2025-2026

8. Principal sees Student daily, during arrival, at lunch, and at the end of the day when school is dismissed. Principal is called to Student's classroom on occasion to aid staff. The behaviors seen from Student vary day to day and do not occur during one set period during the day. During the beginning of the 2025-2026 school year Student was very aggressive, hitting, punching, kicking, name calling, making verbal threats, derogatory comments and racist comments. Dependent on the situation, to address the behaviors, the school occasionally evacuated the classroom for safety reasons, verbally redirected the student or sometimes restrained the student.²⁶
9. Principal recalled that at some point during the first half of the 2025-2026 school year, Parent informed School 1 that Student was on the bus for an extended period in the morning, as the first student picked up in the morning, and due to the length of time, would arrive at school very agitated. Principal reached out to transportation to find out if there was another way to get the student bus services where the student would not be the first one on the bus. Principal was able to work with the transportation supervisor to get Student a different bus to and from school. This did not resolve the problem with Student's behavior, but it did resolve the Parent's concern. This accommodation was never stated in an IEP meeting. Because it was a private concern that Parent brought to Principal, it was faster for the principal to handle it directly with the transportation supervisor.²⁷
10. The Special Educational Instructional Facilitator (SEIF) is Student's trusted adult – the person that Student tends to gravitate to and feels more comfortable with. During the beginning of the school year, Student was out of the classroom more than in it. At that time, it was not

²⁴ R-5, page 31 of 36

²⁵ R-4, pages 8 and 7 of 16

²⁶ Principal's testimony; R-4; R-10

²⁷ Principal's testimony

possible to have a conversation to redirect the student, as the student was quite destructive, tearing things off the walls, yelling, screaming, cussing, even hitting students and adults. Now, Student is enjoyable to be around, can engage in discussions, is very personable, talks to you when you listen, and is a joy to communicate with.²⁸

11. Student's Progress Report dated October 10, 2025 is marked "Satisfactory" for all three Social/Emotional/Behavioral Goals from the March 27, 2025 IEP. The comments include: "Student is beginning to identify and describe positive relationships; Student can reflect on a time they felt a given emotion and is working on writing a sentence for a time they felt a given emotion; and Student has the ability to verbally state emotions and is working on writing or illustrating them."²⁹
12. According to Student's attendance records, between the start of the school year and November 20, 2026, Student had a total of 6 early checkouts on the following dates: 8/27/2025³⁰; 9/9/2025³¹; 9/12/2025; 9/24/25³²; 10/7/2025; and 11/19/2025³³. Student had Required Parent Conferences (RPC) a total of 12 times on the following dates: 9/3/2025; 9/4/2025; 9/23/2025; 9/25/2025; 9/26/2025; 10/2/2025; 10/3/2025; 10/9/2025; 10/10/2025; 10/28/2025; 11/5/2025; and 11/17/2025. Student had a total of 2 suspensions on the following dates: 10/29/2025 and 11/18/2025.³⁴
13. SPED Teacher 1 was Student's teacher during the first half of the school year. Over the course of the first semester, dealing with Student's behaviors became overwhelming for SPED Teacher 1. The teacher was often hit, kicked, punched and scratched by Student. During October 2025, SPED Teacher 1 began using a behavior tracking program for Student. It tracks conversations that students have with their teacher about how focused they were, if they stayed in a designated area, stayed on task and used appropriate language in the classroom. The student participates in determining the score each day. Out of a possible high score of 12, 24, or 32 points each day, between October and November 2025 Student scored as low as 0.0

²⁸ SEIF's testimony

²⁹ R-5, pages 35 and 36 of 36

³⁰ Comment: Having a bad day; R-2, page 4

³¹ Comment: Having a rough day at school; R-2, page 4

³² Comment: Sent home; R-2, page 4

³³ Comment: Hard time in class (12:55 p.m.); R-2, page 3

³⁴ R-2

and a high score of 32 points. Between November and December 2025 Student scored as low as 9.5 and a high score of 31.³⁵

14. Student's BIP was updated on October 14, 2025 and Parent participated. SEIF assisted in the writing and drafting of the same. The BIP is maintained in the student's confidential folder as well as the District's Database, which staff can access. All teachers and specialists (Art, Library, PE, Music, etc.) on the school campus and all adults in the classroom are responsible for implementing the BIP, including, but not limited to SEIF, SPED Teacher 1, and subsequently SPED Teacher 2.³⁶
15. The BIP contains the following sections: Functional Behavior Assessment Summary; Proactive Strategies and Supports; Intervention/Teaching Strategies to Teach Replacement Behavior; Reinforcements of Replacement Behaviors; Responses to Problem Behaviors; and a Crisis Plan.³⁷
16. The Functional Behavior Assessment Summary states that when Student is given a direction/task/activity, or during whole group instruction, the student will interrupt other students and staff, become verbally aggressive, use name calling, frequently curse, use derogatory names, argue and become physically aggressive towards other students and adults to gain attention. "Physically aggressive" includes hitting, kicking, scratching, pinching and bumping into students and adults. Short term replacement behaviors to be taught to the student include: (1) to raise a hand or use a signal card to get the teacher's attention instead of interrupting or becoming aggressive; and (2) be given 4 break cards to use throughout the day; Student can ask for a break with an adult in the pod for 5 minutes where they can engage in coloring, drawing or take a walk.³⁸
17. Proactive Strategies and Supports to limit occurrences of problem behaviors contain methods to address setting events, if applicable, and methods to modify antecedents, including positive strategies to modify the environment. To address setting events, the BIP provides an alternative activity that can be provided in the Library or PE (drawing, coloring, use of break card). The methods to modify antecedents include: (1) Student will be seated near the teacher for immediate feedback and positive reinforcement; (2) Student will be seated away from

³⁵ SEIF's testimony; R-13

³⁶ SEIF's testimony; R-4

³⁷ R-9

³⁸ SEIF's testimony; R-9, page 1 of 3

students they have difficulties being around; (3) Daily check-ins with a trusted adult to review behavior goals and check-out at the end of the day to reflect on success or areas for improvement; (4) Teachers will focus on the student's effort rather than accuracy or grade; (5) Work with Student to improve problem solving, conflict, resolution, and coping skills; (6) Teachers will send Student for a break or an errand when they see the student escalating (get a drink, drop a note off, etc.) Student can use play dough as a decompression activity; (7) Teacher will give the student choices when asking them to do something; and (8) Work with Student on deep breathing, self-talk, or asking for a break when feeling frustrated.³⁹

18. Intervention/Teaching Strategies to Teach Replacement Behavior include: While in the general education (lunch/specials) special education staff will teach Student to ask for a break with an adult up to 4 times per day; Student will raise a hand or use a signal card and wait for the teacher to respond; Student will give a break card to the teacher, an adult will bring Student outside of the classroom with a timer to provide Student's 5-minute break, when the timer goes off, Student will walk back to class, and Student will re-engage in class activity.⁴⁰
19. Reinforcements of Replacement Behaviors include: Student has a point sheet throughout the day; earns points/behavior bucks for respectful language, completion of work and personal space; Student can earn points/behavior bucks and can cash out at the end of the day for reinforcers (from a menu of reinforcers); Top reinforcers for Student include Chromebook, Legos, sand, and video games; and in the general education (lunch/specials) the student earns bucks towards the classroom cash out times for appropriate behavior.⁴¹
20. Responses to Problem Behaviors include: when Student displays undesirable behaviors, the student will be retaught the steps to ask for a break; when the student asks for a break, the student will earn immediate reinforcement; and Student processes problem behavior and finds ways to replace the behavior with more appropriate ways.⁴² It is important for Student to have the ability to ask for a break to prevent eloping and to learn a more appropriate way to take a break from an activity or work.⁴³

³⁹ SEIF's testimony; R-9, page 1 of 3

⁴⁰ SEIF's testimony; R-9, pages 1 and 2 of 3

⁴¹ R-9, page 3 of 3

⁴² R-9, page 3 of 3

⁴³ SEIF's testimony

21. Within the BIP, the Crisis Plan (if needed) defines the following as a crisis for Student: when the student becomes verbally and physically aggressive (punching staff/students). When Student is in crisis, the student will be removed from the learning environment, or the classroom will be evacuated. Administration will be called and will stay with Student to provide the time to calm down and de-escalate. De-escalation strategies include: (1) Time to regroup – minimal conversation from staff at this time; (2) Structured physical activity (taking a walk, going to the courtyard); (3) Coloring, drawing, writing about the emotions being experienced; (4) Distraction from current emotions through conversations about preferred topics.⁴⁴
22. Tools used to monitor frequency, duration, intensity of problem behavior, implementation and effectiveness, and strategies and supports included daily behavior emails to track/document Student's use of replacement behaviors. The team will reevaluate the behavior plan quarterly to analyze the effectiveness of the intervention strategies and supports.⁴⁵
23. During an incident on November 4, 2025, SPED Teacher 1 was trying to get Student on the bus at the end of the day, and without provocation the student turned around and slapped the teacher across the face. Student was removed from the bus and began hitting another staff member. Student was taken to the conference room until Parent arrived, where the student was throwing and breaking items, throwing items at staff, and as a result the school police were called. Due to the incident, SPED Teacher 1 decided not to return to School 1 after winter break.⁴⁶
24. On November 5, 2025, during a Required Parent Conference, Parent was informed that School 1 was considering a modification of Student's IEP to add a harness for the bus, due to consistent distracting behaviors that caused the bus driver to pull over on multiple occasions.⁴⁷
25. On November 7, 2025, a first written Parental Prior Notice was provided to Parent. Proposed actions included: review/revise IEP; change in special education placement; conduct a manifestation determination, propose a disciplinary change of placement; and Alternative Instructional Arrangements (AIA). Reasons included IEP development review, parent/guardian concerns, behavior concerns, and teacher concerns. Other options considered

⁴⁴ R-9, page 3 of 3

⁴⁵ R-9, page 3 of 3

⁴⁶ Principal's testimony; R-10, page 19 of 80

⁴⁷ R-10, pages 20-21 of 80

by the IEP Team before proposing the above were continuing with services as indicated in the IEP dated March 27, 2025. That option was rejected because the IDEA requires a manifestation of disability review to evaluate the behavior violation and student records to determine whether the behavior is a manifestation of the disability and if revising the IEP will better meet the student's needs.⁴⁸

26. On November 17, 2025, Student refused to do any work in the morning but wanted to call home for a snack. The student was not allowed to call home, so the student stomped on the teacher's feet and toes over 15 times. The student threatened to beat the teacher if not allowed to call home. The student continued to punch the teacher. Later that day, while at lunch recess, Student was saying mean things to another student. That student started saying things back. Student became extremely upset because the student was laughing at Student. The aides saw and intervened and told the children to stop and not to play together. A staff member stated that the other student hit Student and as a result, Student used their hands to grab and scratch up the other student's face and neck. A Required Parent Conference was conducted at the time that Parent picked up Student that day and Student was suspended from school for the following day.⁴⁹
27. On November 21, 2025, a Manifestation Determination Review was held to determine whether the behavior from November 17, 2025 was a manifestation of the student's disability. The team, comprised of Parent, SEIF, the regular teacher, and SPED Teacher 1, determined that the conduct in question was a manifestation of the student's disability because the conduct was typical behaviors Student exhibited.⁵⁰

November 21, 2025 IEP Team Meeting

28. On November 21, 2025 an IEP Team meeting was held was held to amend the March 27, 2025 IEP including holding a manifestation determination meeting, to discuss bus support(s) and to review the Individual Intervention Services (IIS) report. IIS services are provided to students that need more intensive support to modify their behaviors.⁵¹
29. The IEP Team added the following data under the "Assessments Conducted" column of the November IEP: review of behavior 08/11/2025 – 11/21/2025, confidential folder review

⁴⁸ R-6, page 3 of 40

⁴⁹ R-7; R-10, pages 17 and 16 of 80

⁵⁰ SEIF's testimony; R-7

⁵¹ R-6, page 6 of 40

11/07/2025, teacher observation 08/11/2025 – 11/21/2025, bus citation 11/4/2025, and school-based individual intervention services (IIS).⁵²

30. The IEP Team reviewed behavior including 73 behavioral instances since the beginning of the 2025-2026 school year, including aggressive behavior, class disruption, verbal abuse, assault-staff, battery-staff, unacceptable school behavior, insubordination, threat, vandalism, fighting and physical altercations.⁵³ The confidential folder review included that the student has a history of aggressive behavior, vandalism, unacceptable school behaviors, and verbal abuse.⁵⁴
31. Teacher observations from the period of 8/11/2025 through 11/21/2025 included that the student demonstrates clear understanding of classroom expectations, rules and routines when prompted, but exhibits frequent impulsive behaviors, including hitting, kicking, scratching peers and staff, and verbally threatening others. Student often refuses to use coping tools, strategies or take breaks (asks for a walk or break but will not engage in the strategy when offered). Student engaged in property destruction by throwing objects and ripping materials and will sometimes distort events or omit key details when describing incidents. Academically, the student can participate in grade-level tasks when in a regulated state, but behavioral escalations significantly reduce access to instruction and peer interactions. The 11/4/2025 bus citation states that the student is constantly cussing and agitating the other students on the bus. The bus driver is constantly pulling the bus over to discipline the student for fighting with other students. The student cusses out the bus driver, tells the driver to just shut up and drive the bus, and causes a high level of distraction to the bus driver.⁵⁵
32. The Individual Intervention Services (IIS) assessment consisted of observations on 9/29/2025 and 10/13/2025 in the student's self-contained special education classroom during a variety of activities (small group, large group, and break time); a review of the IEP, BIP, and data-based decision-making worksheet; and staff interviews. Areas observed during the IIS assessment included listener responding, attending, maladaptive behavior, and functional communication.⁵⁶ The results of the IIS observations placed the student in a category wherein

⁵² R-6, pages 18 to 21 of 40

⁵³ R-6, pages 18 and 19 of 40

⁵⁴ R-6, page 19 of 40

⁵⁵ R-6, page 19 of 40

⁵⁶ SEIF's testimony; R-6, page 20 of 40

IIS services were not recommended because Student already had the knowledge that IIS services teach, such as, “If I hit someone, what else could I have done instead?”⁵⁷

33. Parent’s Education Concerns in the November IEP included that Student’s behaviors were getting in the way of learning, Parent wanted work sent home when the student is sent home, and Parent was concerned about putting the student in a safety vest on the bus, preferring a bus aide instead. Parent agreed to the safety vest, noting however, that transportation would be responsible if there were any issues related to the use of the vest.⁵⁸
34. Student’s previous Social/Emotional/Behavioral Goals were replaced by one Social Skills/Behavior Goal, one Behavior Goal, one Behavior/Social/Emotional Goal, and one Transition Goal.⁵⁹ An additional accommodation of providing Student with a safety vest to be worn on the bus and seating the student close to the driver was also added to the IEP.⁶⁰
35. Student’s placement was changed to Alternative Instructional Arrangements for one day on November 21, 2025 and then to a special/behavioral school beginning November 22, 2025. The justification for placement in a special/behavioral school included the following in pertinent part: Student has an inability to learn through the independent practice in the general education setting because the student requires extensive academic modifications and adjustment to the content and delivery of the curriculum; Student has difficulty making and maintaining positive relationships, is unable to benefit from direct instruction in the general education setting and has a disability that requires continual assistance, prompts, individualized methods and materials in order to be successful with the required curriculum; Student has failed to demonstrate appropriate and positive social/emotional/behavioral skills in the general education or special education environments despite modeling, 1:1 support and social skills instruction; and meeting Student’s needs results in a significant disruption to the general education setting, and the student’s needs are best met when provided additional intensive support.⁶¹ At the time of the meeting the behaviors were daily and the student was out of the classroom more than in the classroom. During the IEP meeting, no specific special school/behavioral school was discussed or recommended, just that Student attend one. No

⁵⁷ SEIF’s testimony; R-6, pages 20 and 21 of 40

⁵⁸ R-6, page 22 of 40

⁵⁹ R-6, pages 25 to 27 of 40

⁶⁰ R-6, page 30 of 40

⁶¹ R-6, page 38 of 40

discussions took place about the placement decision prior to the IEP meeting. Once the recommendation for the change in placement was submitted to case management, they determined which school Student would attend, not the IEP Team.⁶²

36. Parent disagreed with the placement decision in the November 21, 2025 IEP.⁶³ The Notice of Intent to Implement IEP, dated November 21, 2025, proposed to implement the IEP on December 1, 2025, the team, except for Parent, agreed that the IEP met Student's needs as written. The District refused to continue with Student's current placement because the team believed that a special school/behavioral school placement would benefit Student more than the current placement due to behaviors increasing in number each year (73 behavioral incidents on November 21, 2025 compared to the previous years' totals - 2024-2025 of 78, 2023-2024 of 81, and 2022-2023 of 52.)⁶⁴ Parent's Due Process Complaint was dated December 1, 2025 and received by the District on December 2, 2025. Student remained in the Program 1 classroom at School 1 and District implemented stay put.⁶⁵

Second Semester 2025-2026 School Year

37. After the conclusion of winter break, Student's Program 1 classroom at School 1 had a substitute teacher for two weeks until SPED Teacher 2 started in January 2026.⁶⁶
38. While School 1 still sees the same behaviors from Student, the behaviors are no longer daily. At the beginning of the school year additional support was necessary to deal with the behaviors, whether from staff or the Parent. Currently, Student may have a couple of behaviors a week. While Principal is not sure what attributed to reducing the behaviors, there have been additional changes in the classroom with other students that have come and gone. In terms of academic work, the student's willingness is still not there. When emotional outbursts occur, although there is still no reasoning or change in response, there are fewer outbursts.⁶⁷
39. Student runs out of the classroom less now and goes to the SEIF's office. Upon arriving, SEIF asks the student whether permission was obtained to leave the classroom, and if not, sends the student back to the classroom to obtain permission. Typically, 3-5 minutes later, SEIF gets a

⁶² SEIF's testimony

⁶³ HO-1; R-6, page 39 of 40

⁶⁴ R-6, page 40 of 40

⁶⁵ Parent's testimony; HO-1; HO-8; HO-11

⁶⁶ Principal's testimony

⁶⁷ Principal's testimony; SPED Teacher 2's testimony

call on the radio that the student is requesting to go to the SEIF's office for a break. If SEIF is available, the student comes to the office, takes a seat, and SEIF asks what happened, why the student needed a break, and they discuss options and strategies the student can use in the classroom. Recently, SEIF started requiring Student to bring classroom work during these breaks so that they cannot be used as a strategy to avoid schoolwork. When Student brings schoolwork to the SEIF's office, the work is completed. When the student gets permission for a break, the student usually walks to the SEIF's office alone, but there is usually someone that has eyes on the student and upon arrival at the office, the SEIF notifies the classroom or staff. The SEIF sets a timer so that the student knows when they are expected to return to the classroom. Typically, when Student calms down, is no longer pacing back and forth or switching chairs, and is breathing normally, about 5-10 minutes after arrival, SEIF asks the student if they are ready to go back to class.⁶⁸

40. Student's IEP and BIP are followed to support the student in the Program 1 classroom. There are assistants in all areas across the school to monitor the students, and they all have access to Student's BIP, behavior goals and what Student is currently working on. If there are behavior concerns, they are first addressed by the Specialized Program Teaching Assistants (SPTA). If necessary, Student might be removed from the classroom until the student calms down.⁶⁹
41. SPED Teacher 2 only learned on April 1, 2026, that Student lost a parent in October 2024 when the student mentioned it earlier that day. Parent believes that Student has unresolved grief that has contributed to emotional dysregulation in the school setting. SPED Teacher 2 does not see any signs of grief from Student during class. After reviewing the accommodations in Student's IEP and BIP in detail with the knowledge that Student lost a parent, SPED Teacher 2 does not believe that any accommodations are missing necessary to support Student. SPED Teacher 2 sees the improvements in Student's behavior after receiving support or understanding from staff.⁷⁰ Parent acknowledged that SPED Teacher 2 is doing an amazing job building rapport with Student and implementing the necessary skills and coping strategies.⁷¹

⁶⁸ SEIF's testimony

⁶⁹ Principal's testimony; SEIF's testimony

⁷⁰ SPED Teacher 2's testimony; Parent's testimony

⁷¹ Parent's testimony

42. When it comes to academics, Student does not want to start work and shows defiant behaviors such as scribbling, ripping it up or pushing it away. When it comes to interactions, the most difficult situations occur when Student is in an argument with another student already, as both students want to have the last word. These behaviors can happen in every setting throughout the school day and just depend on the student's mood. When the students return to class after recess, they are all returning with energy and it's difficult to get them calmed down and back to work. Student has shown progress since January 2026. For example, in the beginning, when Student was told not to swear, the student did not care or would talk back. Now Student catches the swearing, as opposed to the teacher, and apologizes more. The coping strategies that have worked best with Student are being allowed to take a walk or a break. Student can ask for a break when getting ready to work but cannot do so yet when already in a dysregulated state. They work on deep breathing to help Student communicate so that they can calm the student down and talk about it when the emotions are not high. These coping strategies are consistently supported by staff and are used before disciplinary action. One of the major triggers that Student experiences in the classroom setting is when another student calls the student a name.⁷²
43. Program 1 staff, including SPED Teacher 2, are fully qualified to handle Student's behaviors. SPED Teacher 2 received training in Functional Behavior Assessments (FBA), BIPs, IEPs, and Crisis Prevention Intervention (CPI) which includes how to manage holds and restraints of students. The SPTAs are also extensively trained and have been in the Program 1 classroom for almost two years now.⁷³
44. School 1 tracks behavioral data and determines whether there are systems or structures that need to be adjusted. Unfortunately, they are having a hard time understanding Student's likes and dislikes that would either redirect the student or provide guidance for how to approach certain behaviors.⁷⁴
45. If an IEP Team meeting was held now to discuss Student's placement in a special school, SEIF does not believe that Student needs to attend a behavior/special school because the student is easily redirected, is following through with what has been put in place for the BIP

⁷² SPED Teacher 2's testimony

⁷³ Principal's testimony

⁷⁴ Principal's testimony

and will go back to class after eloping and asks appropriately for a break. SEIF attributes the continued use and follow through of the BIP and the interventions put in place to the reduction in behaviors. Student uses skills such as raising a hand, using break cards, having a point sheet, and receiving reinforcers a lot more now compared to the beginning of the school year.⁷⁵

V.

CONCLUSIONS OF LAW AND DISCUSSION

Based upon the above Findings of Fact, the arguments of counsel and Petitioners, as well as this Hearing Officer's own legal research, the Conclusions of Law of this Hearing Officer are as follows:

ISSUE ONE

Whether Student's 11/21/2025 Individualized Educational Program (IEP) Team predetermined Student's change in placement and failed to place Student in the Least Restrictive Environment (LRE)? If so, did the predetermination and/or failure result in a denial of a Free Appropriate Public Education (FAPE)?

ANALYSIS

The IEP in effect on the day that Parent's Complaint was filed was the March 27, 2025 IEP.⁷⁶ Therefore, pursuant to the IDEA, District was required to maintain Student in the current educational placement listed in the March 27, 2025 IEP, which was in a self-contained program. There is no dispute that Student has remained in the self-contained Program 1 classroom at School 1 since the filing of the Complaint.⁷⁷ District stated during the opening statement and through the testimony of SEIF that Student no longer needs a change in placement to a special school.⁷⁸ Therefore, this issue is resolved and this IHO need not address the remainder of the analysis that would follow related to predetermination, least restrictive environment or a denial of a FAPE.

⁷⁵ SEIF's testimony

⁷⁶ FOF 2; FOF 36

⁷⁷ FOF 36

⁷⁸ FOF 45

ISSUE TWO

Whether Student's 11/21/2025 IEP Team properly considered data regarding behavioral interventions and coping skills when considering a change in Student's placement? If not, was there a denial of a FAPE?

ANALYSIS

District stated during the opening statement and through the testimony of SEIF that Student no longer needs a change in placement to a special education public school.⁷⁹ Therefore, this issue is also resolved and this IHO need not address the remainder of the analysis that would follow related to whether the IEP Team properly considered data regarding behavioral interventions and coping skills when considering a change in Student's placement, and if not, whether there was a denial of a FAPE.

ISSUE THREE

Whether District failed to implement Student's Behavioral Intervention Plan (BIP), behavior-related goals, and behavior-related supports, in Student's 03/27/2025 IEP? If so, did it constitute a material failure to implement that resulted in a denial of a FAPE?

LEGAL AUTHORITY

i. ***Implementation***

Each public agency must ensure that the student's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and that each teacher and provider is informed of his or her specific responsibilities related to implementing the child's IEP; and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.⁸⁰

"[F]ailure to implement an IEP may deny a child a free appropriate public education and thereby give rise to a claim under the statute. The language [of the statute] also counsels against making minor implementation failures actionable given that "special education and related services" need only be provided "*in conformity with*" the IEP. There is no statutory requirement of perfect adherence to the IEP, nor any reason rooted in the statutory text to view minor implementation

⁷⁹ FOF 45

⁸⁰ 34 CFR § 300.323(d)

failures as denials of a free appropriate public education.”⁸¹ A material failure to implement an IEP violates the IDEA. A material failure occurs when the services a school provides to a disabled child fall significantly short of the services required by the child's IEP. Minor discrepancies between the services provided and the services called for by the IEP do not give rise to an IDEA violation.”⁸²

Although courts are not bound by agency interpretations of statutes and regulations, they generally give them deferential consideration. “It is incumbent upon IEP Teams to implement IDEA's procedural and substantive requirements to ensure that children with disabilities receive the behavioral supports they need to enable them to advance appropriately toward attaining the annual goals specified in their IEPs and to be involved in and make progress in the general education curriculum. A failure to implement these procedural requirements or provide needed behavioral supports to a child with a disability could result in the child not receiving a meaningful educational benefit and therefore constitute a denial of FAPE and/or a denial of placement in the LRE (i.e., an unduly restrictive placement).”⁸³

ii. Free Appropriate Public Education

The term “free appropriate public education” means special education and related services that—(A) have been provided at public expense, under public supervision and direction, and without charge; (B) meet the standards of the State educational agency; (C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and (D) are provided in conformity with the individualized education program required under section 1414(d) of this title.⁸⁴

The Act's requirement of a "free appropriate public education" is satisfied when the State provides personalized instruction with sufficient support services to permit the handicapped child to benefit educationally from that instruction.⁸⁵ The Act guarantees a substantively adequate program of education to all eligible children, and this requirement is satisfied, and a child has received a FAPE, if the child's IEP sets out an educational program that is "reasonably calculated to enable the child to receive educational benefits.”⁸⁶

⁸¹ *Van Duyn ex rel. v. Baker School Dist.*, 481 F.3d 770, 779 (9th Cir. 2007)

⁸² *Van Duyn ex rel. v. Baker School Dist.*, 481 F.3d 770, 780 (9th Cir. 2007)

⁸³ *Dear Colleague Letter*, 68 IDELR 76 (OSEP August 1, 2016)

⁸⁴ 20 USC § 1401(9); 34 CFR § 300.17

⁸⁵ *Board of Education of Hendrick Hudson Central School District Bd of Ed Westchester County v. Rowley*, 458 U.S. 176, 177, 102 S.Ct. 3034, 73 L.Ed.2d 690 (1982),

⁸⁶ *Endrew F. v. Douglas Cnty. Sch. Dist. RE-I*, 137 S.Ct. 988, 995, 197 L.Ed.2d 335 (2017)

A determination of whether there is a denial of FAPE is a fact-based determination, to be made on a case-by-case basis. Factors to consider include: whether the public agency has failed to follow the procedures IDEA requires when developing, reviewing, or revising the child's IEP, or has failed to consider and/or provide a child with a disability with necessary behavioral supports when the child's behavior impedes his or her learning or that of others; or whether the child's IEP is reasonably calculated to provide a meaningful educational benefit in the absence of behavioral supports.”⁸⁷

ANALYSIS

i. Implementation

Student is being supported at School 1 and in the Program 1 classroom. Staff follow the March 27, 2025 IEP, the BIP incorporated directly into that IEP, and subsequently, the BIP created on October 14, 2025.⁸⁸ SPED Teacher 1 was using a behavior tracking plan during the first semester. Student’s October Progress Report is marked “Satisfactory” for all three Social/Emotional/Behavioral Goals from the March 27, 2025 IEP and include comments that “Student is beginning to identify and describe positive relationships; Student can reflect on a time they felt a given emotion and is working on writing a sentence for a time they felt a given emotion; and Student can verbally state emotions and is working on writing or illustrating them.”⁸⁹

SPED Teacher 2 discussed in detail how each of the accommodations in both the IEP and BIP are being implemented in the Program 1 classroom.⁹⁰ Student’s trusted adult, SEIF, discussed in detail how the break cards and daily check ins are being implemented, how much progress has been made since the beginning of the school year, and that Student does not need a special school.⁹¹ Parent acknowledged that SPED Teacher 2 is doing an amazing job building rapport with Student and implementing the necessary skills and coping strategies.⁹²

Therefore, District has not failed to implement Student’s Behavioral Intervention Plan (BIP), behavior-related goals, and behavior-related supports, in Student’s 03/27/2025 IEP.

ISSUE FOUR

⁸⁷ *Dear Colleague Letter*, 68 IDELR 76 (OSEP August 1, 2016)

⁸⁸ FOF 39; FOF 40; FOF 41

⁸⁹ FOF 11

⁹⁰ FOF 41; FOF 42

⁹¹ FOF 39; FOF 40; FOF 45

⁹² FOF 41

Whether District failed to provide Student with necessary accommodations and supports related to the Student's transportation services in Student's 03/27/2025 IEP? If so, did the failure result in a denial of a FAPE?

The draft issues were prepared without access to Student's March 27, 2025 IEP which does not contain accommodations or supports in conjunction with Student's transportation service.⁹³

Therefore, there is no issue that needs to be addressed by this Hearing Officer.

ISSUE FIVE

Whether District failed to proactively review and revise Student's 03/27/2025 IEP and BIP when Student was not meeting behavioral expectations? If so, did the failure result in a denial of a FAPE?

LEGAL AUTHORITY

Each public agency must ensure that the IEP Team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and revises the IEP, as appropriate, to address: any lack of expected progress toward the annual goals and in the general education curriculum, if appropriate; the results of any reevaluation conducted under this section; information about the child provided to, or by, the parents; the child's anticipated needs; or other matters.⁹⁴

ANALYSIS

During the beginning of the 2025-2026 school year, Student was engaging in daily behaviors.⁹⁵ Student had early checkouts on 8/27/2025; 9/9/2025; 9/12/2025; 9/24/25; and 10/7/2025. Student had Required Parent Conferences (RPC) on 9/3/2025; 9/4/2025; 9/23/2025; 9/25/2025; 9/26/2025; 10/2/2025; 10/3/2025; 10/9/2025; and 10/10/2025.⁹⁶ An IIS assessment was completed with observations occurring on 9/29/2025 and 10/13/2025.⁹⁷ The results of the IIS placed the student in a category wherein services were not recommended.⁹⁸ Approximately 9 weeks into the school year, School 1 modified Student's BIP.⁹⁹

⁹³ FOF 5

⁹⁴ 20 USC § 1414(d)(4)(A); 34 CFR § 300.324(b)

⁹⁵ FOF 8

⁹⁶ FOF 12

⁹⁷ FOF 32

⁹⁸ FOF 32

⁹⁹ FOF 15

On November 21, 2025, a Manifestation Determination Review was held to determine whether Student's behavior on November 17, 2025 was a manifestation of the student's disability. The team determined that the conduct in question was caused by or had a direct and substantial relationship to the student's disability.¹⁰⁰ An IEP Team meeting occurred immediately thereafter.¹⁰¹ While the IEP Team's recommendation was to change the student's placement to a behavior/special school, the Parent disagreed with the recommendation, and on the day the IEP was scheduled to be implemented, filed a Due Process Complaint.¹⁰² As a result, the March 27, 2025 IEP and Student's placement remained in effect through the conclusion of this process.¹⁰³ Student does not currently need to attend a behavior/special school because the continued use and follow-through of the BIP and the interventions put in place worked to reduce the behavior.¹⁰⁴

Therefore, District did not fail to proactively review and revise Student's 03/27/2025 IEP and BIP when Student was not meeting behavioral expectations.

NOTICE OF 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 electronically by e-mail. Receipt of this Decision and Order will be determined by the date of actual delivery of the email noted by the 'delivery receipt' this Hearing Officer receives and provides to the parties after issuance of the decision.

Dated: April 20, 2026

/s/ Audrey J. Beeson
Hearing Officer

¹⁰⁰ FOF 27

¹⁰¹ FOF 28

¹⁰² FOF 35; FOF 36

¹⁰³ FOF 36

¹⁰⁴ FOF 45; FOF 38; FOF 40; FOF 41; FOF 42

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