

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

**STATE OF NEVADA**

In the Matter of

**DECISION OF THE IHO**

STUDENT<sup>1</sup>, by and through The Parents,

The Parents,

Date: June 15, 2025

v.

SCHOOL DISTRICT,

The District.

Victoria T. Oldenburg,  
Impartial Hearing Officer (IHO)

**INTRODUCTION AND PRELIMINARY MATTERS**

1. The parties to the present matter are the Student, by and through the Parents (“Petitioners”) and the School District (“Respondent and/or “District”).<sup>2</sup>
2. On March 3, 2025 Petitioners filed a *Request for an Impartial Due Process Hearing* (“hereafter referred to as the Due Process Complaint or “DPC”) under the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §1400 et. seq., and its implementing regulations, 34 CFR §300 et seq., Chapter 388 of the Nevada Revised Statutes (NRS), and Chapter 388 of the Nevada Administrative Code (NAC).<sup>3</sup> At all times both parties were represented by legal counsel.
3. On March 7, 2025 the Nevada Department of Education (NDE) Superintendent of Public Instruction appointed the undersigned IHO, Victoria T. Oldenburg, to this matter.<sup>4</sup>

<sup>1</sup> Personally identifiable information is included in the Appendix to the final decision in this matter and will be removed prior to public distribution. *See Letter to Schad*, 105 LRP 4754 (December 23, 2004).

<sup>2</sup> All pre-hearing documents referenced herein were provided electronically.

<sup>3</sup> IHO Exhibit (HO) 1.

<sup>4</sup> HO 1

4. On March 7, 2025 the IHO issued a *Preliminary Order* setting forth the statutory time periods applicable to the proceeding as established in 34 C.F.R. §§300.510-300.515. The IHO also issued a *Notice of Status Conference* setting the telephonic Status Conference for March 19, 2025 at 10:00 a.m. and issued the *Rights of the Parties*.<sup>5</sup> The primary purpose of the Status Conference was to set the dates for the Prehearing Conference and hearing in the event the parties were unable to resolve the issues in the DPC. On March 11, 2025 the IHO issued a *Second Notice of Status Conference* resetting the telephonic status conference for March 18, 2025 at 11:00 a.m., and on March 11, 2025 the Hearing Officer issued a *Third Notice of Status Conference* resetting the telephonic status conference for March 18, 2025 at 12:00 p.m.<sup>6</sup>

5. On March 13, 2025 the District submitted its *Notice and Response to Request for Due Process*.<sup>7</sup>

6. On March 18, 2025 the IHO issued an *Order After Status Conference, Extending Decision Due Date, Setting Hearing and Prehearing Conference, and Setting Motion Deadlines*. The original decision due date was May 17, 2025. The IHO found good cause to grant an extension of the 45-day time period under 34 CFR §300.515(c) because, due to the schedule of the parties, the hearing could not be held until May 13, 14 and 15, 2025. At the Status Conference the Parties indicated they would be filing prehearing motions and agreed to a briefing schedule which was

<sup>5</sup> HO 2, 3, and 4.

<sup>6</sup> HO 5 and 6.

<sup>7</sup> HO 7.

set forth in the March 18, 2025 Order.<sup>8</sup>

7. On April 3, 2025, Respondent filed a *Motion in Response to Petitioner's Request for Reimbursement for Private Placement*, requesting that the IHO dismiss any claims in the DPC related to reimbursement for private services on the grounds that Petitioner failed to satisfy the requirements of 34 C.F.R. §300.148 which governs unilateral placement in private schools by parties and tuition reimbursement. The District argued, *inter alia*, that the Parents did not provide the District with notice that they were rejecting the homebound placement, including stating their concerns and their intent to enroll the Student in a private school at public expense under 34 C.F.R. § (d)(1)(i) and therefore they were not entitled to reimbursement for the private placement.<sup>9</sup>

8. On April 4, 2025 Petitioners filed a *Motion to Compel Production of Petitioner's Education Record, Including Email Communications* on the grounds Respondent had not produced the Student's complete education record which had been previously requested by the Petitioner.<sup>10</sup>

9. On April 17, 2025 Respondent submitted its *Opposition to Motion to Compel Production of Petitioner's Education Record Including Email Communications*.<sup>11</sup>

10. On April 18, 2025 Petitioners filed an *Opposition to Respondent's Motion to Dismiss Petitioner's Proposed Resolution Relating to Private Placement*.<sup>12</sup>

<sup>8</sup> HO 8.

<sup>9</sup> HO 9.

<sup>10</sup> HO 11.

<sup>11</sup> HO 14.

<sup>12</sup> HO 13.

11. The parties were not able to resolve the issues in the DPC during the resolution period. On April 25, 2025 the IHO issued a *Notice of Prehearing Conference* and provided the parties with the *Hearing Process Guidelines*.<sup>13</sup>

12. On April 25, 2025 the IHO issued a *Preliminary Statement of Issues* identifying issues A through E in the DPC.<sup>14</sup>

13. On April 29, 2025 the IHO issued a *Prehearing Conference Report and Order*.<sup>15</sup>

14. On April 30, 2025 the IHO issued an *Order Denying Motions*. The IHO denied *Respondent's Motion in Response to Petitioner's Request for Reimbursement for Private Placement* on the grounds that Petitioner was not requesting reimbursement for a unilateral placement under 34 C.F.R. §300.148 but rather putting forth a remedy for prospective relief and the proper forum to argue for or against the proposed remedy is at the hearing. With regards to *Petitioner's Motion to Compel Production of Petitioner's Education Record, Including Emails*, Petitioner had withdrawn the motion during the Prehearing Conference and therefore the motion was denied as moot.<sup>16</sup>

15. On May 1, 2025, pursuant to the agreement of the parties the IHO issued an *Addendum to Prehearing Conference Report and Order* restating issue "A" to the DPC.<sup>17</sup>

16. At the end of business on May 5, 2025, Respondent received Petitioner's list of witnesses, which included a teacher who was assigned to provide homebound instruction to the Student. On

<sup>13</sup> HO 15.

<sup>14</sup> HO 16.

<sup>15</sup> HO 17.

<sup>16</sup> HO 18.

<sup>17</sup> HO 19.

the morning of May 6, 2025, the District emailed the teacher at their school's email account notifying the teacher that Petitioner was calling the teacher as a witness and requesting the teacher's availability for the virtual hearing. The teacher responded in an email that due to medical reasons they were unable to serve as a witness as their doctor had advised them not to involve themselves in any stressful or prolonged activities, especially participating in court proceedings, due to health reasons, and the teacher offered to provide a note from their doctor. On the afternoon of May 7, 2025 Respondent informed Petitioner and the IHO that the witness was unavailable due to medical reasons. The IHO asked Respondent to obtain the doctor's note. Respondent provided the doctor's note the morning of May 8, 2025 which stated the doctor was formally exempting the teacher from acting as a witness due to medical reasons. Because the witness was unavailable to testify at the hearing the Petitioner sent an email the afternoon of May 8, 2025 requesting that certain facts pertaining to the unavailable witness be admitted or stipulated to by Respondent and requesting that certain categories of evidence be excluded due to the inability to cross-examine the unavailable witness. Respondent was given the opportunity to respond by close of business on Friday, May 9, 2025. Respondent did not submit a response. On May 12, 2025 the IHO announced her decision denying Petitioner's request. On May 13, 2025 the IHO issued a written *Order Denying Petitioner's Request Regarding Facts and Evidence* finding, *inter alia*, she had no authority to require that certain facts be admitted or stipulated to related to the unavailable witness, or the authority to exclude evidence due to Petitioner's inability to cross-examine the unavailable witness.<sup>18</sup>

17. The due process hearing was held on May 13, 14 and 15, 2025. Pursuant to the stipulation

<sup>18</sup> HO 20, which includes the emails and doctor's note referenced in the Order as an attachment.

of the parties, the hearing was held via simultaneous electronic audio/visual means (“Zoom”).

Petitioner opted for the hearing to be closed to the public. The Student did not attend the hearing.

18. The District has the burden of proof and the burden of production. NRS 388.467.

19. At the hearing, IHO Exhibits 1 through 21 were admitted, Respondent Exhibits R-1 through R-12 were admitted, and Petitioner Exhibits P-6, P-32, P-37, P-49, P-65, P-66, P-80, P-83, P-84, and P-85 were admitted.

### ISSUES

As set forth in the Pre-Hearing Conference Report and Order, the issues to be decided by the IHO are:

A. Whether the District denied the Student a FAPE from September 4, 2024 to the present by allegedly failing to educate the Student in the least restrictive environment.

B. From May 16, 2024 to the present was the Student timely and appropriately evaluated and assessed in all areas of suspected disability and need, specifically with regard to the need for an Occupational Therapy assessment, Physical Therapy assessment, Orientation and Mobility assessment, Adaptive Physical Education assessment, Speech and Language assessment, and the need for a Behavior Intervention Plan? If not, was there a denial of FAPE?

C. From May 16, 2024 to the present were the Student’s May 16, 2024 and September 4, 2024 IEPs appropriately developed and tailored to the Student’s unique individual needs, and reasonably calculated to enable the Student to receive educational benefits and make appropriate progress in light of the Student’s circumstances, specifically with regards to transportation, school avoidance behavior, adaptive physical education, anxiety, and peer and adult social interactions? If not, was there a denial of FAPE?

D. From May 16, 2024 to the present were the Student’s IEPs properly implemented

with regard to specially designed instruction and related services for Physical Therapy, Occupational Therapy, and Audiology? If not, was there a denial of FAPE?

E. From May 16, 2024 to the present were the Parents significantly impeded from meaningfully participating and providing input to the IEP team regarding the decision to change the Student's placement to homebound instruction? If so, was there a denial of FAPE?

The relief being sought by the Parent was for the District to fund the private residential placement of the Student at the *Perkins School for the Blind* effective immediately through the Student's completion of high school plus all related transportation costs, that the District immediately provide a complete copy of the Student's education records<sup>19</sup>, and that the Nevada Department of Education award Petitioner any other relief deemed fair and just.

### **FINDINGS OF FACT**

After considering all the evidence, this IHO's Findings of Facts are as follows:

1. The Student was born on October 5, 2010. At the time the DPC was filed the Student was an 8<sup>th</sup> grade pupil at Middle School. (R-2)
2. The Student qualifies for special education and related services under the eligibility category of Deaf and Blind. (R-5, page 3) The Student has complex educational needs because the Student's dual sensory impairment makes the acquisition of academics and language more challenging than just a single sensory impairment; the Student requires modification to all of the Student's academic work to account for the Student's vision impairment, and language and academic delays. (Testimony of Deaf and Hard of Hearing (DHH) Teacher, Tr. Day 1, page 77) The Student's dual sensory impairments are progressive and continue to degrade. (Testimony of

<sup>19</sup> As set forth above, the request for the Student's educational records was withdrawn by Petitioner.

Mother, Tr. Day 3, pages 115-116)

3. The Student has been diagnosed with a DHX16 gene mutation, which is Neuromuscular Oculauditory Syndrome, has OTOGL (Otogelin Like), lordosis and scoliosis which are the neuromuscular conditions that cause the Student to have a stiff hand, and a curved back. The Student was diagnosed in 2021 with anxiety. (Testimony of Mother, Tr. Day 3, at 116)

4. The Student has trouble moving about with their legs and feet and wears leg braces. Because Student is tiptoed the Student has a difficult time wearing the braces for long periods of time. In March, 2024 the Mother reported to the IEP Team that the Student began using bilateral leg braces, and in May, 2024 the Mother reported to the IEP Team that the Student started receiving Botox injections in the Student's right leg to address muscle tightening. (Testimony of Mother, Tr. Day 3, at 116, R-5, pages 12-13)

5. The Student requires adult guide assistance and uses hand trailing for orientation and mobility due to visual impairment. (R-5, page 12-13)

6. The Student was in a [ ] deaf and hard of hearing program (a.k.a. DHH Program) since at least the 6<sup>th</sup> grade. The DHH Program is a self-contained program which includes a DHH teacher that communicates in American Sign Language (ASL) with the Student and there is an assistant in the classroom who also is required to have skills in ASL. The purpose of the program is to support communication and increase the student's ability to communicate using ASL. The Student requires a 1:1 tactile ASL Interpreter who watches the DHH sign and then signs it to the Student tactilely at the Student's desk. (Testimony of Asst. Principle, Tr. Day 1, pages 34-35, Testimony of DHH Teacher, Tr. Day 1, pages 42, 97)

7. The Student "very much" has the capacity to learn but the School has struggled to consistently get the Student onto campus so that the Student can reach their "full potential." When



the Student is in class the Student puts forth effort and is willing to learn. The Student enjoys learning, works hard, is compliant, and has no behavioral issues while attending school. The Student is a tactile learner. When reading sight words the DHH Teacher uses raised print. The DHH teacher and the tactile ASL Interpreter go through the words with the Student and the Student feels the letters with one hand, and spells them with another hand; if there is an error that the Student did not correct themselves they would finger spell (using ASL) the word for the Student and help the Student get back to the letter(s) the Student had read incorrectly. Once the Student got the letter(s) they would provide the Student the sign for the letter(s) if the Student didn't provide it to them. (Testimony of DHH Teacher, Tr. Day 1, pages 42-44)

8. On average the Student is at a kindergarten level for reading, math and language. The Student's level for reading is low because the Student's ability to use language to learn a new topic is limited; the vocabulary the Student knows in ASL and the topics the Student is able to converse about are limited. (Testimony of DHH Teacher, Tr. Day 1, pages 45-46)

9. The Student has had struggles with riding the bus since elementary school. The School did not initiate a functional behavioral assessment (FBA) or a behavioral intervention plan (BIP) during the 2023-2024 school year (7<sup>th</sup> Grade). (Testimony of DHH Teacher, Tr. Day 1, pages 78-80) The Student was on homebound instruction for a period of time in 2021 (elementary school) due to anxiety and transportation issues, and the Mother requested help from the School and did not receive any. The Student went off homebound instruction at the start of 6<sup>th</sup> grade. (Testimony of Mother, Tr. Day 3, pages 105-106)

10. In the fall of 2022, (6<sup>th</sup> Grade) the DHH Teacher was sent to the Student's home, along with the Student's 1:1 assistant and two behavior interventionists, to work with the Student to get on and ride the bus. The Student initially pushed them away, hit at them or spit at them. Little by

little they obtained the Student's trust and were able to get the Student to approach the bus, touch the bus, and move around the bus. The Student started riding the bus fairly consistently until April or May of 2023.<sup>20</sup> The DHH Teacher was not sure why the Student no longer consistently rode the bus. The Student's attendance was inconsistent from then on. The only report the DHH Teacher had was that the Student did not want to get on the bus anymore. (Testimony of DHH Teacher, Tr. Day 1, pages 46-48) At the start of the 6<sup>th</sup> grade the Student had a transportation plan that included positive behavioral support and transportation training but the plan was not followed due to a lack of staff; the Mother asked for help but because there was no available behavior interventionist at that time she did not get assistance. (Testimony of Mother, Tr. Day 3, pages 107-108, 111)

11. For a two-week period during the 2023-2024 school year (7<sup>th</sup> Grade), the Mother was having a hard time getting the Student to ride the bus and made attempts on her own to bring the Student to school but the Student would not exit the vehicle or would climb under the vehicle; the Student displayed anxiety and fear. Despite requests to the School the Mother did not receive any behavioral or transportation supports and services to help get the Student to school and the District did not call an IEP meeting to discuss transportation issues. The first time the Student successfully rode the bus to school was in November, 2023 but something happened and the Student was sent home. There were other times the Student successfully rode the bus but was sent home. When the Student arrived at the School the School was giving the Student an option to go home. (Testimony of Mother, Tr. Day 3, pages 111-115, 118-119)<sup>21</sup> The May 16, 2024 IEP notes:

<sup>20</sup> It is noted for the record that the IEPs for the 2022-2023 and 2023-2024 school year were not included in the parties' disclosures.

<sup>21</sup> The 2024-2025 IEP noted that based on staff observations and attendance records from 1/3/2023 – 4/26/2023, during the 2022-2023 school year (6<sup>th</sup> grade) the Student had consistent attendance with absences for appointments from

In August 2024, at the beginning of the 2023-2024 school year, [the Student] refused to ride the bus daily. Bus driver arrived to the home early to give [the Student] extra time to become comfortable with the bus, driver, and aide. [The Student] rode the bus to school two times. Upon arrival at school [the Student] would not exit the bus. SEIF, teacher, and intervener worked with [the Student] for almost 2 hours before the bus returned [the Student] home. The second time [the Student] rode, the teacher, SEIF, and intervener worked with [the Student] for 45 minutes. [The Student] would sit on the bus stairs and communicate with staff. [The Student] cycled through pushing staff away, eagerly communicating and showing excitement to practice reading and math, and crying. When told [the Student] was going home, [the Student] quickly moved to [the Student's] seat and put on [the Student's] seatbelt and visibly relaxed.

(P-37, pages 77-78)

12. On April 29, 2024 a Settlement Agreement and Mutual Release (Agreement) was entered into by and between the Petitioners and Respondent in exchange for the withdrawal of a due process complaint filed on January 31, 2024. Part of the Agreement was that the District would perform an FBA within forty-five (45) school days of receipt of the Parent's consent and then would conduct a BIP based upon the results of the FBA within ten (10) school days after completion of the FBA.<sup>22</sup>

13. The Student's IEP for the time period May 16, 2024 through May 15, 2025 provided the

January through spring break (mid-March). The Student rode the bus to school the first day following spring break. The Student's attendance since the 2023 spring break period was 50% with 13 unverified absences out of 26 days. The Student's mother reported that the Student would not sit on the bus, crawled under the bus, and refused to board the bus. When leaving school, the Student was able to board the bus, find and sit in the seat, and put on the seatbelt independently 80% of the time. When the bus was delayed the Student was able to patiently wait and when there was a staff or driver change the Student was accepting of the change. (P-37 at 00077-00078)

During the 2023-2024 school year (7<sup>th</sup> Grade), the Student had 76 unverified absences for the time period September 6, 2023 through January 16, 2024 (out of 96 school days from August 7, 2023 through January 16, 2024). (Testimony of Asst. Principle, Tr. Day 1, page 32, R-1, R-2) No evidence was presented on attendance from January 17, 2024 to the end of the school year.

<sup>22</sup> The Agreement was entered as R-12. The IHO does not have jurisdiction to enforce the settlement agreement and was not requested to do so by the parties. *Wyner v. Manhattan Beach Unified School District*, 223 F.3d 1026, 1028-29 (9<sup>th</sup> Cir. 2000).

following academic and functional goals, and benchmarks or short-term objectives:<sup>23</sup>

***Measurable Annual Goal - Reading:***

By annual review date, in a classroom setting the Student will increase functional reading skills using key words to sequence events from a story and show comprehension with 80% accuracy as measured by teacher observation/records, as implemented by special education teacher and staff supported by the teacher of the visually impaired.

***Benchmark or Short-Term Objective:***

#1 Given three key words in sequence related to text read to him, the Student will describe an event from the story using a minimum of 3 words for each provided work (provided word plus two more).

#2 Given three key words related to text read to him, the Student will put the words in the correct sequence.

#3 Given three key words related to text read to him, the Student will put the words in the correct sequence and give additional details for each event.

***Measurable Annual Goal – Written Language:***

By annual review date, in a classroom setting the Student will increase functional writing skills by building sentences using tactile word cards achieving a criteria of 70% as measured by student work samples as implemented by special education teacher and staff supported by occupational therapy.

***Benchmark or Short-Term Objective:***

#1 When given 10 tactile words the Student will sort words by part of speech (noun/verb).

#2 When given 10 tactile words the Student will pair a noun and verb together.

#3 When given 10 tactile words the Student will make a sentence of 3 words to include a minimum of one noun and one verb.

***Measurable Annual Goal – Math:***

<sup>23</sup> Due to absences during the 2023-2024 school year, reading, written language, math, social/emotional, adaptive skills, gross motor skills, orientation and mobility, and physical education assessments and observations were not collected and completed. (P-37 at 00070-00077) The Student did not make meaningful progress on the Student's IEP goals during 7<sup>th</sup> grade as the Student was "not on campus." (Testimony of DHH Teacher, Tr. Day 1, page 79)

By annual review date, in a classroom setting the Student will increase functional math skills in the areas of time, money, and basic facts achieving a criteria of 80% as measured by teacher record as implemented by special education teacher and staff supported by teacher of the visually impaired.

*Benchmark or Short-Term Objective:*

- #1 The Student will add within 20 using manipulatives.
- #2 The Student will subtract within 20 using manipulatives.
- #3 The Student will tell time to the hour.
- #4 The Student will identify coins and bills and state their value.

***Measurable Annual Goal – Expressive Language:***

By annual review date, on the school campus, the Student will increase sign language skills and clarity achieving a criteria of 80% as measured by teacher records and observation as implemented by special education teacher and staff.

*Benchmark or Short-Term Objective:*

- #1 The Student will use a minimum of 50 verbs when signing on the school campus.
- #2 The Student will request needed classroom material for a given activity.
- #3 The Student will include a descriptor when requesting materials for a given activity.
- #4 The Student will clearly use the handshapes r, u, h and claw 5.

***Measurable Annual Goal – Social/Emotional:***

By annual review date, on the school campus, the Student will increase understanding of emergency procedures achieving a criteria of 80% as measured by teacher observation as implemented by special education teacher and staff.

*Benchmark or Short-Term Objective:*

- #1 The Student will complete the earthquake drill procedure (kneel under desk with arms covering neck).
- #2 The Student will complete hard lock down procedure (lay on floor with arms over head quietly).

#3 The Student will immediately evacuate a location when told to do so by a staff member.

***Measurable Annual Goal – Adaptive Skills:***

By annual review date, on the school campus, the Student will increase understanding of emergency procedures achieving a criteria of 80% as measured by teacher observation as implemented by special education teacher and staff.

***Benchmark or Short-Term Objective:***

#1 The Student will complete the earthquake drill procedure (kneel under desk with arms covering neck).

#2 The Student will complete hard lock down procedure (lay on floor with arms over head quietly).

#3 The Student will immediately evacuate a location when told to do so by a staff member.

***Measurable Annual Goal – Physical Education:***

The Student will demonstrate personal responsibility while in general PE class with peers maintaining a criterial of 4 out of 5 trials as measured by observation and documentation as implemented by Adapted PE Teacher and General Education PE Teacher.

***Benchmark or Short-Term Objective:***

#1 The Student will participate in modified activities where the Student can apply 2-step sequences using a variety of balls (bounce and catch, then shoot towards lowered basket, kick a ball and proceed to move through the bases, etc.) achieving a criteria of 3 out of 5 trials.

#2 The Student will participate in modified activities where the Student can apply 2-step sequences using a variety of balls (bounce and catch, then shoot towards lowered basket, kick a ball and proceed to move through the bases, etc.) achieving a criteria of 4 out of 5 trials.

#3 The Student will summarize daily activities during closure or wrap-up time, using 2 PE related signs or phrases achieving a criteria of 3 out of 5 trials.

#4 The Student will summarize daily activities during closure or wrap-up time, using 2 PE related signs or phrases achieving a criteria of 3 out of 5 trials.

***Measurable Annual Goal – Orientation and Mobility:***

By the end of the 2024-2025 school year, the Student will increase basic independent travel skills with a criteria of 100% as measured by observation and documentation by the orientation and mobility specialist and supported by school staff and physical therapist.

*Benchmark or Short-Term Objective:*

#1 The Student will use proper Human Guide techniques when walking a route to the Student's desk with fewer than 5 prompts.

#2 The Student will use hand trailing techniques when walking a route to and from the Student's desk with fewer than 5 prompts.

#3 The Student will use modified trailing techniques when walking a route from the Student's seat in the cafeteria to the end of the Student's table and wait for Human Guide assistance for traversing an open area with less than 5 prompts.

The method for reporting progress was quarterly specialized progress reports. (P-37 at 00082-00086)

14. The Student's IEP for the time period May 16, 2024 through May 15, 2025 provided the following specifically designed instruction (SDI): (i) Reading – 250 minutes per week, self-contained; (ii) Written Language – 250 minutes per week, self-contained; (iii) Math – 250 minutes per week, self-contained; (iv) Language/Communication – 250 minutes per week, self-contained; (v) Social/Emotional – 250 minutes per week, self-contained; (vi) Language/Communication/Social Skills – 400 minutes per week, general education, and (vii) Physical Education Skills per Curriculum – 400 minutes per month, general education. In in Extended School Year (ESY) SDI the IEP provided: (i) Reading - 70 minutes per day, self-contained; (ii) Written Language – 50 minutes per day, self-contained; (iii) Math – 50 minutes per day, self-contained; (iv) Language and Communication – 120 minutes per day, self-contained and; (v) Social/Emotional Skills – 80 minutes per day, self-contained. (P-37 at 00086-00087)

15. The Student's IEP for the time period May 16, 2024 through May 15, 2025 provided the following Supplementary Aids and Services as to service, frequency, and location: (i) pair real

objects/tactile materials when introducing new vocabulary, concepts, and completing activities; pair objects with tactile representations – during instruction, Special Education Classroom; (ii) provide tactile demonstrations, hand over hand modeling and prompting to complete assignments – during instruction, Special Education Classroom; (iii) access to tactile labels and materials – during instruction, Special Education Classroom; (iv) tactile school class schedule and tactile weekly schedule for school/home to identify school and non-school days – daily, Special Education Classroom; (v) access to work tray – when working at desk, Special Education Classroom; (vi) allow wait time to explore objects – when new object is presented; (vii) allow wait time to explore new objects – when new object is presented, Special Education Classroom (duplicate of (vi)); (viii) positive behavior supports will be provided in conjunction with bus transportation (boarding, riding, disembarking) – when utilizing school bus; Special Education; (ix) transportation aide will be in close proximity (arm’s reach) of the Student to reduce anxiety of being alone – during bus ride, Special Education; (x) visual/tactile communication cards that include American Sign Language signs attached to the Student’s backpack to aid in communication with non-signing staff, Special Education; (xi) token board or story board with bus procedures – when riding bus, Special Education; (xii) signing staff member to introduce the Student to new staff or students who the Student will encounter during the school day – when meeting new people, Special Education; (xiii) access to tactile American Sign Language via 1:1 communicator/intervener, teacher of the Deaf, sign language assistance, and/or interpreter – at all times while at school, School Campus; (xiv) share vocabulary the Student is working on with family weekly, Special Education; (xv) Special Education and General Education teacher to collaborate regarding grade in elective course – when grades are given, General Education; (xvi) the Student will have the opportunity to meet bus driver and aide prior to the first day of school –



beginning of school year, Special Education; (xvii) bus driver and aide to be instructed in tactile American Sign Language with a focus on signs the Student may need for the bus – when new regular driver and aide are assigned, Special Education; (xviii) hearing assistive technology provided and maintained by school district – during instruction, assembly, school events, School Campus; (xix) vision services, teacher of the visually impaired to provide consultative service – 45 minutes per month, Special Education Class; (xx) vision services, teacher of the visually impaired to provide an in-service – 45 minutes per month, Special Education Class; (xxi) ESY – vision services orientation and mobility teacher of the visually impaired to provide an in-service and consultation services – 45 minute during ESY, School Campus; (xxii) PE – strategic placement and modifications for success during all activities – during PE, General PE Class; (xxiii) PE – Student to take shade breaks as needed – during PE, General PE Class; (xxiv) PE-variety of equipment available to promote success – during PE, General PE Class; (xxv) PE-parallel activities when needed for safety or to increase success – during PE, General PE Class; (xxvi) PE-preferred placement in locker room and modified lock – if/when assessing locker room, General PE Class; (xxvii) OT to provide educationally relevant adaptive equipment as needed, School Campus, and; PT to provide/maintain educationally relevant adaptive equipment/materials/strategies as needed, School Campus. (P-37 at 00087-00089).

16. The Student's IEP for the time period May 16, 2024 through May 15, 2025 provided the following related services as to service, frequency, and duration: (i) physical therapy consultative– 30 minutes per year, School Campus; (ii) occupational therapy, consultative – 30 minutes per year, School Campus; (iii) transportation, direct curb to curb – 10 minutes per week, Special Education; (iv) orientation and mobility, direct independent travel training – 150 minutes per year, School Campus, and consultative functional and independent mobility support – 100 minutes per year,

School Campus and; (v) audiology, consultative – 30 minutes per year, School Campus. (P-37 at 00089-00090)

17. The Student’s IEP for the time period May 16, 2024 through May 15, 2025 provided that the Student would spend 33% of the school day in the regular education environment (PE, language/communication/social skills) The Parent agreed to the IEP. (P-37 at 00087, 00093, 00095)

18. An FBA was conducted for a period of eight school days from August 12 through August 24, 2025. The sole purpose of the FBA was to obtain data on the refusal behavior relating to the bus in order to determine the cause of the behavior and develop the FBA which in turn would be used to develop the Student’s behavior plan. In conducting the FBA there was a team consisting of two Behavior Interventionists, the Instructional Coordinator for the District, a tactile ASL Interpreter, the Special Needs Bus Driver (“Bus Driver”) and a bus aide, and a person from vision services (hereinafter termed “the FBA team”). The function of the behavior interventionist was to collect duration and frequency data to help the school team develop the FBA. (Testimony of Behavior Interventionist 1, Tr. Day 1, page 116-120, R-6, testimony of Behavior Interventionist 2, Tr. Day 1, page 191-192, testimony of Instructional Coordinator, Tr. Day 1, page 197, 199-200) The role of the Instructional Coordinator was that of an administrator as it was a unique situation to have staff members attend a Student’s home. (Testimony of Instructional Coordinator, Tr. Day 1, page 208)

19. Immediately prior to the FBA the Bus Driver and the bus aide received training on more than 100 tactile signs for conversing with the Student, identifying themselves and others, instructions for getting on the bus, sitting down, strapping in, and on things that were relevant to the bus. (Testimony of Special Needs Bus Driver, Tr. Day 2, pages 61, 69) The Bus Driver did

not receive any training on communicating with the Student during the 2023-2024 school year when the Student rode the bus, was not able to communicate with the Student, and there was no one on the bus who could directly communicate with the Student. (Testimony of Special Needs Bus Driver, Tr. Day 2, pages 76-77)

20. The first day the Mother took the Student to the bus the Student sat on the bus steps but did not move past the first step. After the first day various interventions were used in attempts to get the Student on the bus so that the Student would sit, buckle up, and transition to school. Those interventions included the Mother going over the tactile schedule (door, walk, bus, steps, seat) with the Student, staff standing on steps to reduce the likelihood the Student would sit on the steps, offering skittles and toys, positive praise for stepping up the bus steps, reducing interactions to directions, and prompting the Student with warnings that the bus needed to leave beginning at 5 minutes prior to departure. On the 5<sup>th</sup> day, August 16, 2024, the Student's Father was present and helped the Student into the seat; this was the one day out of the eight days that the Student successfully rode the bus to school and attended classes. On the other days the Student was only able to get to the steps of the bus. (R-6)<sup>24</sup> Observations and data collection concluded on August 21, 2024. After that, the Student was able to ride the bus, five additional times on September 3, 4, 6, 10, and 11, but would not get off the bus when arriving at school and on one occasion would not stay in their seat on the way to school so the Bus Driver drove the Student home. (Testimony of Special Needs Bus Driver, Tr. Day 2, pages 73-75, 84, testimony of Mother, Tr. Day 3, 130-134)

21. On the one day the Student attended school, August 16, 2024, the DHH teacher, the math,

<sup>24</sup> It is noted that the FBA and the manner in which it was conducted was not identified as an issue for the hearing.

science and PE teachers worked with the Student on materials the Student was familiar with and the Student was given lots of praise and positive reinforcement. The Student had a great day but communicated to staff and other persons [ ] came into contact with “Monday school, no.” In 6<sup>th</sup> grade, when the Student was coming to school regularly, the Student would tell the DHH Teacher they were not coming to school the next day but would come to school. (Testimony of DHH Teacher, Tr. Day 1, pages 48-49, 58)

22. On August 30, 2024 a written FBA was prepared by the DHH Teacher using data collected by the FBA team. It was determined that the cause of the Student’s behavior was avoidance, generally, not school avoidance.<sup>25</sup> (Testimony of DHH Teacher, Tr. Day 1, page 52-53, R-5, pages 38-39, testimony of Behavior Interventionist 1, Tr. Day 1, page 153) The Student never expressed why the Student did not want to ride the bus and was very happy each morning when the FBA Team was there. (Testimony of Behavior Interventionist 2, Tr. Day 1, page 183)

23. When addressing avoidance as a function of a student’s behavior, typically the District would write a behavior plan (a.k.a. BIP) and address the behavior plan through goals and accommodations. The Student’s avoidance behavior is affecting the Student’s education and requires a BIP. Addressing the Student’s avoidance behavior could include offering highly reinforcing activities, supports such as using a tactile schedule with repetition, lots of praise, teaching replacement behaviors, and working with the Parent to not allow activities that might be reinforcing at home, i.e. things that the Student views as fun at home, when the Student will not ride the bus to school. (Testimony of Instructional Coordinator, Tr. Day 1, page 204-210)

<sup>25</sup> The Student does engage in vehicle travel outside of school; the Student goes to the park, the swimming pool, the beach, off-roading, out for ice crème, and has gone to outpatient PT and OT. (Testimony of Mother, Tr. Day 3, pages 109-110)

24. On August 27, 2024 the Parents received *Parental Prior Notice of District Proposal* (Prior Notice) of the September 4, 2024 IEP meeting. The Parents were informed that the purpose of the September 4, 2024 meeting was to go over the FBA. (Testimony of DHH Teacher, Tr. Day 1, pages 54-55, R-5 pages 1-2) The Prior Notice also stated that the proposed activities were to review/revise the IEP and educational placement, change in special education placement, and change in related services; the Prior Notice did not specifically state that homebound instruction was being considered as a placement. (R-5, pages 1-2). During the September 4, 2024 IEP meeting the IEP Team discussed a homebound placement. (R-4, pages 2-3) The Mother was present with her advocate and requested that the Team provide 10 hours per week of SDI rather than the five hours initially recommended by the Team to which the Team agreed. (R-4, pages 2-3). After conversing with her advocate the Mother disagreed with the homebound placement. (R-4, pages 2-3) The Mother inquired about a behavioral plan and the Team said there was not one and they would be changing the Student's placement to homebound. There was no discussion of any harmful effects on the Student by placing the Student on homebound or the quality of services the Student would need when on homebound. (Testimony of Mother, Tr. Day 3, pages 131-132)

25. The September 4, 2024 IEP Team determined that the Student should be placed on homebound because they believed the Student was missing out on academic instruction due to the avoidance behavior resulting in the Student not attending school.<sup>26</sup> The least restrictive placement would have been the school campus but the IEP Team determined that because the Student was not coming to school there were no other options. (Testimony of DHH Teacher, Tr. Day 1, page 55, R-5, page 35, testimony of Vision Teacher 1) There is no evidence the IEP Team

<sup>26</sup> The Parent did not challenge the academic goals and objectives in the IEP.

considered other options.

26. At the IEP meeting it was noted that the Parent saw that trust was building between the Student, the Bus Driver, and the 1:1 ASL Interpreter. The Parent wanted the Student to have more time to continue to build trust and get comfortable riding the bus and wanted the same reinforcers to be used, and the Parent wanted alternate transportation methods to be considered. (R-5, page 17)

27. On September 4, 2024 the Student's May 16, 2024 through May 15, 2025 IEP was revised when the Student's placement changed to homebound for the time period September 4, 2024 to May 15, 2025.<sup>27</sup> There were no new present levels of academic achievement and functional performance with the exception of the area of transportation which documented the eight day FBA conducted in the beginning of the school year. (R-5, page 15). The September 4, 2024 IEP contained the same academic and functional goals, and benchmarks or short-term objectives. The Student's SDI at homebound was reduced as follows: (i) Reading – from 250 to 120 minutes per week; (ii) Written Language – from 250 to 60 minutes per week; (iii) Math – from 250 to 120 minutes per week; (iv) Language/Communication – from 250 to 150 minutes per week; (v) Social/Emotional – from 250 to 150 minutes per week. Language/Communication/Social Skills and Physical Education Skills were removed, and there were no ESY services with the exception of physical education skills which were suspended while on Homebound. (R-5, pages 21-26)

28. In the September 4, 2024 IEP, all Supplemental Aids and Services were paused during homebound instruction with the exception of: (i) pair real objects/tactile materials when

<sup>27</sup> For the 2024-2025 School Year, from August 21, 2024 through September 18, 2024 the Student attended school on one day, August 16, 2024, and half a day on October 16, 2024. (Testimony of Asst. Principle, Tr. Day 1, pages 32-33, R-1, R-2)

introducing new vocabulary, concepts, and completing activities; pair objects with tactile representation – during instruction; (ii) provide tactile demonstrations, hand over hand modeling and prompting to complete assignments – during instruction; (iii) access to tactile labels and materials – during instruction; (iv) tactile school class schedule and tactile weekly schedule for school/home to identify school and non-school days – daily; (v) access to work tray – when working at desk; (vi) allow wait time to explore object when new object is presented; (vii) access to tactile American Sign Language via 1:1 communicator/intervener, teacher of the Deaf, sign language assistance, and/or interpreter at all times during instruction; (viii) share vocabulary the Student is working on with family weekly; (ix) vision services, teacher of the visually impaired to provide consultative services– 45 minutes per month; (x) vision services, teacher of the visually impaired to provide an in-service to Homebound Teacher at the beginning of the school year or when teacher changes; (xi) OT to provide educationally relevant adaptive equipment as needed and; (xii) PT to provide/maintain educationally relevant adaptive equipment/materials/strategies as needed.<sup>28</sup> (R-5, pages 26-29)

29. In the September 4, 2024 IEP, all Related Services were paused during homebound instruction with the exception of (i) physical therapy consultative– 30 minutes per year; (ii) occupational therapy, consultative – 30 minutes per year and; (iii) audiology, consultative – 30 minutes per year. (R-5, page 29) The Parent disagreed with the IEP. (R-5 page 34, R-4 page 2)

30. The September 4, 2024 IEP provided that the Student would receive 10 hours per week of SDI. (R-5, page 26).<sup>29</sup> The September 4, 2024 IEP Team made their determination to provide the

<sup>28</sup> The September 4, 2024 IEP included a new Supplemental Aid/Service which was a BIP to support bus transportation but it was paused during homebound instruction.

<sup>29</sup> There is no limit on the amount of hours a student can receive homebound services. ( Test. of Director of Auxiliary Instructional Services, Tr. Day 2 at 130)

Student with only 10 hours per week of instruction as normally a homebound student gets five hours plus whatever hours they receive from online instruction so they wanted to double that. A homebound student typically receives five hours a day of online instruction in the core classes in addition to the five hours per week. (Testimony of Special Education Instructional Facilitator, Tr. Day 2, pages 119-120)

31. The proposed implemental date of the IEP was September 4, 2024. (R-5, page 3) The Student did not start to receive homebound instruction services until October 4, 2024. A *Notice of Intent to Implement* the September 2024 IEP was sent to the Parent on September 4, 2024 with a proposed implementation date of September 14, 2024. The District was waiting for the 10-day time period to challenge the September 4, 2024 IEP to pass before it began homebound instruction. After that time passed the District began to work on assigning a teacher, which was done on September 24, 2024 and on that day the 1<sup>st</sup> Homebound Teacher requested an interpreter. The District contacted four DHH teachers who declined to provide homebound instruction. Instruction began on October 2, 2024. (R-5, page 35, P-49, R-8 page 1, testimony of Director of Auxiliary Instructional Services, Tr. Day 2, pages 135-136, 147-148)<sup>30</sup> No evidence was presented that the District could not start recruiting for homebound teachers on September 4, 2024, the day implementation of the IEP was to begin.

32. Neither of the Homebound Teachers are DHH teachers. When possible SDI should be implemented by a qualified special education teacher. (Testimony of DHH Teacher, Tr. Day 1, page 64, 66) Neither of the Homebound Teachers had the endorsements required by NAC 391.340. The 1<sup>st</sup> Homebound Teacher, who was assigned from October 2, 2024 through December 19, 2024,

<sup>30</sup> The Director of Auxiliary Instructional Services oversees homebound services, adaptive PE, and assistive technology. (Testimony of Director of Auxiliary Instructional Services, Tr. Day 2, page 129)



had a license which stated “Authorization-Special” with an endorsement in Visiting International Teacher (VIT) – All Subjects.” (P-84)

33. The Student’s 2<sup>nd</sup> Homebound Teacher, who started working with the Student on January 13, 2024, has a special education license and an endorsement in adaptive physical education. In the teacher’s position as an adaptive physical education teacher the teacher works with students who are deaf or blind but not both. The teacher did not have previous experience in teaching academics. (P-83, testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2, page 6-7, 20-22, R-8)

34. The DHH Teacher had very little communication with the 1<sup>st</sup> Homebound Teacher who initially picked up materials and went over them with DHH teacher. The DHH teacher had very little communication with the 2<sup>nd</sup> Homebound Teacher and did not know whether the 2<sup>nd</sup> Homebound Teacher received the materials provided to the 1<sup>st</sup> Homebound Teacher. (Testimony of DHH Teacher, Tr. Day 1, pages 58-59)

35. SDI entails the DHH Teacher creating and modifying individual lessons for the Student that specifically meet the Student’s needs. The goals in the IEP were to be implemented by a special education teacher and by staff at the direction of a special education teacher. The DHH teacher did not modify the curriculum for the Student during the homebound placement. The Homebound Teachers were responsible for providing SDI including modification to the Student’s work and were responsible for implementing the goals in the IEP. (Testimony of DHH Teacher, Tr. Day 1, pages 62, 66, 77, 78, 85-86, 88, 98)

36. The DHH teacher had only minimal reports from the 1<sup>st</sup> Homebound Teacher when the DHH teacher requested information about the Student’s progress towards the current goals. The DHH teacher did not have a way to directly assess the effectiveness of the homebound instruction. (Testimony of DHH Teacher, Tr. Day 1, pages 62-66)

37. The 1<sup>st</sup> Homebound Instructor created a “Grade Report” and a “Progress Report” from the time period October 2 through November 12, 2024 giving the Student A’s in all academic courses. (R-7, pages 1-2) There was no other documentation or testimony provided at the hearing regarding instruction during this time period and the 1<sup>st</sup> Homebound Teacher was not available to testify. (HO 18)

38. A Progress Report was prepared by the DHH teacher on December 20, 2024 and was based upon an email the teacher received from the Student’s 1<sup>st</sup> Homebound Teacher. Based upon the email the DHH teacher determined the Student was making satisfactory progress towards the Student’s reading, written language, math, social/emotional, and expressive language goals. Testimony of DHH Teacher, Tr. Day 1, page 99, R-5 pages 40-41)<sup>31</sup> There were no comments on the Progress Report. (R-5, page 40-41)

39. Documents provided by the District indicate the 1<sup>st</sup> Homebound Teacher provided 39.83 hours of instruction in October, 2024, 17 hours in November, and 12.5 hours in December. (R-8) The Parent requested that the 1<sup>st</sup> Homebound Teacher be replaced because the teacher was too comfortable in the home, had brought his daughter to homebound without the Parent’s permission, and had asked the Parent to sign off on hours that the teacher did not complete. Neither the IEP Team nor the DHH Teacher were aware that the Student did not receive the full SDI instruction for those months. (Testimony of Director of Auxiliary Instructional Services, Tr. Day 2, pages 144-145, 149, 150-151)

40. The 2<sup>nd</sup> Homebound Teacher’s schedule was 2:30 to 4:30 p.m. daily. The homebound

<sup>31</sup> The email was not produced at the hearing. R-5 contained a Progress Report dated 10-11-24 but there was no testimony on that report.

instruction occurred after the Homebound Teacher's contracted workday. In January the Mother cancelled 3 times due to the illness of her other children in the house, cancelled 4 times in February – twice because the Student was sick, once because the Parent was sick, and once due to a doctor appointment, cancelled 5 times in March – four times due to Student being sick, once due to family member being sick, and cancelled and twice in April – once due to family member being sick and once because no adult was able to be present at the home. (R-8) Homebound Teachers do not make up missed time due to absences unless the Homebound Teacher is absent. The Homebound Teachers are not permitted to enter the home if the student or any person in the household is ill, and an adult must be present during the entire instructional session. (P-65, testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2 at page 9). If a Student is sick, services are not provided; this is based on a longstanding system that aligns with the policy that if a student is sick at school, the school does not provide the makeup hours for the sick day missed. (Testimony of Director of Auxiliary Instructional Services, Tr. Day 2, page 134)

41. The 2<sup>nd</sup> Homebound Teacher works with the Student's 1:1 tactile ASL Interpreter and uses teaching materials obtained from the Itinerant Vision Teacher, the Nevada Dual Sensory Impairment Project, some the 2<sup>nd</sup> Homebound Teacher created, and had some materials from the 1<sup>st</sup> Homebound Teacher. The Nevada Dual Sensory Project contacted the 2<sup>nd</sup> Homebound Teacher when the teacher started working with the Student and they discussed better ways to accommodate the Student. (Testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2, page 57-58)

42. Regarding math, the 2<sup>nd</sup> Homebound Teacher initially did single-digit addition with the Student and they worked up to 20. The Student can now do single- and double-digit subtraction. When the 2<sup>nd</sup> Homebound Teacher initially started the Student did not know multiplication and division and now knows the 2s all the way through on both division and multiplication. The

Student is able to identify coins. The Student can tell time to the hour. (Testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2, pages 12-13, 40-41) The Student has met the IEP math goal. (R-5 page 22)

43. Regarding reading, when the 2<sup>nd</sup> Homebound Teacher first started working with the Student, the Student could sometimes read the words but not really understand or put the sequences together. For example, the Student was presented with a short book about a little girl that had a party which had balloons, a cake, the day of the week of the party, and the girl's name. When the teacher first started working with the Student, the Student could only say "party, party, party." Now the Student can recall the girl's name, the day of the week of the party, the color of the balloon, and that the characters ate cake. The Student is also able to put words together to make sentences and read short three-sentence books, and give additional details for the story read. In April, 2025 the Student was able to read several sight words in braille. (Testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2, pages 15-16, 47-48, R-11). The Student has met the IEP reading goal. (R-5 page 21)

44. With regards to written language, the Student is making progress toward this goal. When given 10 tactile words the Student can sort them by noun and verb. When given 10 tactile words the Student was sometimes able to pair a noun and verb together. When given 10 tactile words the Student was able to make a sentence of three words to include a minimum of one noun and one verb and sometimes more using tactile and braille. (Testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2, pages 48-49, R-5 page 22.)

45. Regarding the written expression goal (increasing sign language skills) no specific measurements or examples were given by the 2<sup>nd</sup> Homebound Teacher or provided in the record.

46. The 2<sup>nd</sup> Homebound Teacher spends time with the Student on science related activities.

For example, they have gone outside and discussed rocks, leaves, and decomposition, and have discussed airplanes and how they are able to fly. (Testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2, pages 13-14)

47. The 2<sup>nd</sup> Homebound Teacher spends about five minutes per day on physical education with the Student by going outside and playing with a ball but that time is not considered adaptive PE. It was confirmed the Student has gross motor deficits pertaining to Student's right leg tiptoe and Student's bottom three fingers as noted by the physical therapist. (Testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2, page 14, 32-33)

48. The 2<sup>nd</sup> Homebound Teacher works on orientation and mobility by walking the Student through the home and feeling different objects. (Testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2, page 35)

49. When the 2<sup>nd</sup> Homebound Teacher and the tactile ASL interpreter are present the Student is happy, thrives, and enjoys the time they are there. The Student is inquisitive and wants to know more about things. (testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2, page 16)

50. On February 7, 2025 the 2<sup>nd</sup> Homebound Teacher prepared a Progress Report which stated grades for English, Reading, Computer Science, Science, Social Studies, and Math. There were no comments on the Progress Report regarding progress toward meeting the September 4, 2024 IEP goals. The Student was given an A in each subject. (R-7, page 3). In teaching the Student Computer Science, the teacher would do things with the Student on the iPad. For example, the Student would tell the teacher the Student would like to listen to a dog barking though the Student's cochlear implant so the teacher would look it up and the Student would listen to the different frequencies of the barking. The teacher gave the Student A's because the Student was strongly working towards the goals, had met some goals, and was getting close to meeting other goals, i.e.

giving 80% effort; if it looked like the Student would meet the goal by the end of the semester the teacher would give the Student an A on the Progress Report. (Testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2, pages 11, 50-53)

51. The DHH Teacher reached out once, via email, to the 2<sup>nd</sup> Homebound Teacher for an update. The 2<sup>nd</sup> Homebound Teacher does not give regular updates because the Student has been progressing. The 2<sup>nd</sup> Homebound Teacher provides modifications to the Student's academic work; the DHH Teacher has not provided the 2<sup>nd</sup> Homebound Teacher with modifications for the Student. The District did not provide the 2<sup>nd</sup> Homebound Teacher with training on how to implement the goals in the Revised IEP. (Testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2 at 14-15, 31, 33-35)<sup>32</sup>

52. The DHH Teacher did not go to the Student's home to provide SDI and has not personally worked with the Student since the Student was placed on homebound instruction. (Testimony of DHH Teacher, Tr. Day 1, page 62)

53. The Student had the 30-minute annual physical therapy assessment on February 2, 2025.

54. The Student has a tiptoe on the right side, fingers at a fixed flexed C position which interferes with signs, has no stationary balance, does not know how to use guided touch when walking, is aware of home surroundings and can feel for environment and walk independently at home. The Student has braces for their hands for the flexed position and leg braces. The Student does not presently have community physical therapy or occupational therapy. (R-9, Testimony of School Physical Therapist, Tr. Day 1, pages 108-109).

<sup>32</sup> It is important to note the Parent did not challenge the methodology of the homebound instruction itself, staffing of the homebound instruction, or whether there was adequate oversight of the homebound instruction by School staff. In addition, although the expert testified regarding the sufficiency of SDI and the goals, objectives, and benchmarks in the September 4, 2024 IEP, (testimony of Expert, Tr. Day 3, pages 33-44) the Parent did not challenge the development of the IEPs regarding SDI or the development of the goals, benchmarks or objectives in the IEPs, other than the adaptive physical education goal.

55. During the 2024-2025 school year, the first time the Student received direct services from the District's itinerant teacher for the visually impaired was in February, 2025 (the Itinerant Vision Teacher); prior to that time the Itinerant Vision Teacher would drop off materials for the Homebound Teacher and have occasional discussion with the Mother and Homebound Teacher. After discussion with the 2<sup>nd</sup> Homebound Teacher and the Mother the Itinerant Vision Teacher first introduced the Student to braille on February 21, 2025. Since that time the Itinerant Vision Teacher generally sees the Student weekly for approximately 45 minutes. The Homebound Teacher taught himself braille and works with the Student on braille when the Itinerant Vision Teacher is not there which has contributed to the Student's success with braille. (R-11, Test. of Vision Teacher, Tr. Day 1, pages 160-168, R-11)

56. When the Itinerant Vision Teacher started to teach the Student braille, the Itinerant Vision Teacher gave the 2<sup>nd</sup> Homebound Teacher a braille alphabet on Lego tiles; the Homebound Teacher would take a sensory letter, such as the raised letter A, and would give the Student the letter A on the braille. The Student would basically do three to four letters for two to three days, and then they would move on. Within 2 weeks the Student knew the whole alphabet. At the time of the hearing the Student was able to read and understand roughly 20 sign words in braille. (Testimony of 2<sup>nd</sup> Homebound Teacher, Tr. Day 2, pages 10-12)

57. The first contact the Occupational Therapist (OT) had was with the 2<sup>nd</sup> Homebound Teacher. The OT emailed the 1<sup>st</sup> Homebound Teacher but did not hear back. On January 31, 2025 the OT reached out to the 2<sup>nd</sup> Homebound Teacher to provide support. The OT first visited the Student on March 28, 2025, and it was the first time the OT met the Student. The Student has issues with the fourth and fifth fingers which are contracted, curled and stiff, making it difficult for the Student to open them up to be able to sign certain things. The Student had been provided

with night splints to stretch out the contractors from an outpatient occupational therapist. The Student is no longer going to outpatient therapy. The OT visited the Student a second time on April 4, 2025. The Student had a hard time isolating their fingers when using a braille typewriter (would press all fingers down at once) and had a hard time manipulating and isolating their fingers when using Theraputty – both activities required the assistance of the 2<sup>nd</sup> Homebound Teacher. (Testimony of OT, Tr. Day 2, pages 92-99, R-10)

58. The Student had occupational therapy before being placed on homebound instruction. The ideal environment to implement OT skills such as motor planning, sensory regulation, or daily living skills would be in the school setting. Occupational therapy is very important to a Student who communicates using their hands. (Testimony of OT, Tr. Day 2, page 101-103)

59. The Student needs communication growth and skill and a speech and language therapist is a provider that can help build vocabulary for the Student. (Testimony of Expert, Tr. Day 3, page 33)

60. Assessments for occupational therapy, physical therapy, orientation and mobility, adaptive physical education, and speech and language assessment can be made in the home environment and often are with students who have health issues or early childhood development. (Testimony of Expert, Tr. Day 3, pages 93-94).<sup>33</sup> The Student's fine and gross motor skills, orientation and mobility skills physical education skills, and speech and language skills have not been assessed and observations had not been made since the 2022-2023 school year. (R-5, pages 6-17). The last comprehensive evaluation the Student had was an IEE performed on August 21, 2022 by the Expert. (P-6) The expert has not seen or assessed the Student since that time. (Testimony of

<sup>33</sup> The Expert is an expert in the area of school psychology and has special knowledge, skills, experience and training in the area of sensory impairment. (Tr. Day 3, pages 58-60)



Expert, Tr. Day 3, page 62)

61. Placement at a school that specializes in educating deaf and blind students is reasonable and appropriate for the Student to meet the Student's needs. (Testimony of Expert, Tr. Day 3, page 50) There are no deaf/blind schools on the west coast that can meet the Student's needs. In determining a specialty school for a student, the process would be identifying which school has the ability to serve the student and then going through the application process in order to determine if the student qualifies for the school based on their needs. (Testimony of Expert, Day 3, TR. Pages 98-99, 100) The Perkins School in Massachusetts is the only deaf/blind school that will accept Students who are not residents of the state of Massachusetts and that do not require a school district referral. In March, 2025 the Parent applied to the Perkins School and submitted pictures and videos of how the Student walks and eats. The application is pending. (Testimony of Parent, Tr. Day 3, pages 147-149, 160)

62. No evidence was presented as to whether the Perkins School was an available and appropriate placement for the Student given the Student's unique needs and/or whether the Student might be a candidate for placement and, if so, whether there was a vacancy for the Student. No evidence was produced such as the application submitted or related material provided to the Perkins School, correspondence between the Parent and the Perkins School, instructional programs offered at the Perkins School, any required assessment data pertaining to qualifications for admission, or testimony or other specific information from a member of the Perkins School staff addressing the school's program and services and how they would meet the Student's unique needs.

### **CONCLUSIONS OF LAW**

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

The Individuals with Disabilities Education Act ("IDEA") was enacted “to ensure that all children with disabilities have available to them a free appropriate public education [FAPE] that emphasizes special education and related services specifically designed to meet their unique needs and prepare them for further education, employment, and independent living.” 20 U.S.C. § 1400(d)(1)(A). The IDEA requires that FAPE be provided to children with disabilities residing in the state from ages 3 to 21. 20 U.S.C. § 1412(a)(1)(A). School districts work with parents to develop an individualized program (IEP) that should assess the student’s current academic performance, articulate measurable educational goals, and specify the nature of the special education and related services the district will provide. 20 U.S.C. § 1414(d)(1)(A)(i). An IEP is constructed only after careful consideration of the student’s present levels of achievement, disability, and potential for growth. *Endrew F. ex rel. Joseph F. v. Douglas County School Dist. RE-1*, 580 U.S. 386, 137 S.Ct. 988, 999 (2017); 20 USC §§ 1414(d)(1)(A)(i)(I)-(IV), (d) (3)(A)(i)-(iv).

School districts must comply procedurally and substantively with the IDEA. *E.G., Crofts v. Issaquah School Dist. No. 411*, 22 F.4<sup>th</sup> 1048, 1054 (9<sup>th</sup> Cir. 2022). The IDEA requires that a due process decision be based upon substantive grounds when determining whether a child has received a FAPE, unless a procedural violation impedes the child's right to a FAPE, significantly impedes the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to their child or causes a deprivation of educational benefits. 20 U.S.C. §1415(f)(3), *Rowley, supra*, 458 U.S. at 206-207.

Procedural violations are not harmless if they “substantially interfere with the parents’ opportunity to participate in the IEP formulation process, result in the loss of educational opportunity, or actually cause a deprivation of educational benefits...” *Timothy O v. Paso Robles*

*Unified School Dist.*, 822 F.3d 1105, 1118 (9<sup>th</sup> Cir. 2016). Procedural violations which do not result in a loss of educational opportunity or which do not constitute a serious infringement of the parents' opportunity to participate in the IEP process are insufficient to support a finding that a student has been denied a FAPE. *W.G. v. Board of Trustees of Target Range Sch. Dist. No. 23*, 960 F.2d 1479, 1482 (9<sup>th</sup> Cir. 1992).

The substantive requirements of the IDEA are violated when a school district fails to offer an IEP that is “reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” *Endrew F. ex rel. Joseph F. v. Douglas County School Dist. RE-1*, 580 U.S. 386, 403, 137 S.Ct. 988 (2017). “The ‘reasonably calculated’ qualification reflects a recognition that crafting an appropriate program of education requires a prospective judgment by school officials.” *Endrew F* at 999, citing *Rowley* at 207, 102 S.Ct. 3034.

A FAPE “does not mean the absolutely best or ‘potential-maximizing’ education for the individual child.” *Gregory K. v. Longview School District*, 811 F.2d 1307 (9<sup>th</sup> Cir. 1987). The states are obligated to provide a “basic floor of opportunity” through a program “individually designed to provide educational benefit to the handicapped child.” *Id.* at 1314 (quoting *Rowley*, 458 U.S. at 197 n.21, 200-01, 102 S.Ct. at 3047-48 n.21).

Students must be evaluated and assessed for all suspected disabilities so that the school district can determine what special education and related services will address the student's individual needs. *Timothy O. v. Paso Robles Unified Sch. Dist.*, 822 F. 3d 1105 (9th Cir. 2016) See *id.* §§ 1412(a)(7), 1414(a) -(c). A failure to assess a student for all areas of suspected disability and need can deprive the IEP Team of critical evaluation information about the Student’s developmental abilities as a student with a disability. Such deprivation can make it impossible for the IEP team to consider and recommend appropriate services necessary to address the Student’s

unique needs and result in a denial of FAPE. *Id.*

The reevaluation of a Student with a disability may occur not more frequently than once a year, unless the parent and the Local Education Agency (LEA) agree otherwise, and must occur at least once every three years unless the parent and the LEA agree that a reevaluation is unnecessary. 34 C.F.R. § 300.303. A reevaluation must also occur when the education/related services needs warrant or if the parent or teacher requests a reevaluation. *Id.*

To the maximum extent possible, students with disabilities should be educated with students who are nondisabled. Removal of students with disabilities from the regular educational environment should only occur when the nature of the severity is such that education in the regular class with supplemental aids and services cannot be achieved satisfactorily. 34 C.F.R. § 300.114. In selecting the least restrictive environment, consideration is given to any potential harmful effect on the Student or on the quality of services that the Student needs. 34 C.F.R. § 300.116(d). Under 34 C.F.R. 300.115 (a) the LEA must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education. The continuum must include the alternative placements listed in the definition of special education under 34 CFR §39 (instruction in regular classes, special classes, special schools, and home instruction), and make provisions for supplementary services such as itinerant instruction.

The ninth Circuit has established a four-factor test to determine whether a school district has complied with the least restrictive environment requirement. *Sacramento City Unified School District v. Rachel H.*, 14 F.3d 1398, 1404 (9<sup>th</sup> Cir. 1994). The first factor compares the academic benefits a student derives from each placement. The second factor considers the non-academic benefits a child derives from each placement. The third factor weighs the potential negative effect the student's presence may have on the other children in the classroom. The

fourth factor considers the cost that the school district bears by providing supplementary aids and services necessary to educate the student in the classroom. *Id.*

**A. Did the District denied the Student a FAPE from September 4, 2024 to the present by allegedly failing to educate the Student in the least restrictive environment?**

Here, it is clear from the reduced SDI minutes in the September 4, 2024 IEP and the supplementary aids and services that were paused during a lengthy placement in homebound, the Student is not receiving the same academic and non-academic benefits the Student would be receiving if the Student was placed at the School. In selecting the homebound placement, there is no evidence the September 4, 2024 IEP Team considered any harmful effect on the Student or on the quality of services that the Student needs. More importantly, the District did not develop and implement a BIB prior to placing the Student on homebound to determine what supplemental aids and services the Student could receive in order achieve success in riding the bus to school, getting off the bus, or which considered other transportation modes that might be successful in enabling the Student to attend the School to access the Student's education.

The District did not comply with the least restrictive environment requirement for the Student by failing to implement and develop a BIP which included supplemental aids and services to address the Student's transportation needs prior to placing the Student on homebound. Therefore, the homebound placement was not the least restrictive environment.

The evidence presented at the hearing did not identify an available alternative placement for the Student during the 2024-2025 school year. There is no special school in Nevada to accommodate the Student's unique needs, and the only school identified as a possible least restrictive placement for the Student is the Perkins School for the Blind located in Massachusetts. Although the Mother testified she started the application process at the Perkins School sometime

in March, 2025, no evidence was presented as to whether the Perkins School was the appropriate placement for the Student given the Student's needs and/or whether the Student might be a candidate for placement and, if so, whether there was a vacancy for the Student. The Parent did not produce the application submitted or related material provided to the Perkins School, correspondence between the Parent and the Perkins School, instructional programs offered at the Perkins School, any assessment data pertaining to qualifications for admission, or testimony or other specific information from a member of the Perkins School staff addressing the school's program and services and how they would meet the Student's unique needs.

Although there was no evidence to establish an available alternative placement which was not the least restrictive environment, it is necessary to address whether the most restrictive placement, homebound, resulted in a denial of FAPE. While the Student met their September 4, 2024 IEP goals in math and reading, made some progress in written language, and has begun to learn braille during their time with the 2<sup>nd</sup> Homebound Teacher, there was no quantitative data that the Student made appropriate progress in expressive language, social/emotional skills, adaptive skills, orientation and mobility, and physical education. What is especially troubling is that the September 4, 2024 IEP Team did not attempt to modify the goals, or the supplementary aides and services, for implementation in the homebound placement or include feasible methods for assessing progress on the Student's goals in the homebound placement.

Based upon the foregoing, the IHO finds the Student was denied a FAPE while in the homebound placement.

**B. From May 16, 2024 to the present was the Student timely and appropriately evaluated and assessed in all areas of suspected disability and need, specifically with regard to the need for an Occupational Therapy assessment, Physical Therapy assessment, Orientation and Mobility assessment, Adaptive Physical Education assessment, Speech and Language assessment, and the need for a Behavior**

**Intervention Plan? If not, was there a denial of FAPE?**

While the District has the burden of proof, the District did not present any evidence to rebut this claim or that the alleged failure to timely and appropriately evaluate and assess the Student in all areas of suspected disability and need resulted in a denial of FAPE.

The evidence is clear that the Student needed a Behavior Intervention Plan (BIP) in order to address the Student's avoidance behavior which precluded the Student from attending school. As set forth above, the District failed to develop and implement a BIP prior to changing the Student's placement to homebound. By failing to prepare a BIP after the FBA, the IEP Team was deprived of critical information regarding the Student's transportation needs including supplemental aids and services that could be achieved in order to transport the Student to school, and did not have the necessary information to consider and recommend appropriate services necessary to address the Student's avoidance behavior. In addition, the failure to develop and implement a BIP after the FBA was conducted prevented the Student from engaging in further attempts to travel to school with additional supports and services. Therefore, the failure to develop a BIP resulted in a denial of FAPE.

There was no evidence that the District conducted comprehensive assessments or evaluations for the Student's fine and gross motor skills, orientation and mobility skills, physical education skills, and speech and language skills during middle school despite the fact the evidence shows the Student has occupational therapy needs, physical therapy needs, orientation and mobility needs, physical education needs, and speech and language needs in order to be able to access the Student's education. Assessments for occupational therapy, physical therapy, orientation and mobility, adaptive physical education, and speech and language assessment can be made in the home environment and often are with students who have health issues or early

childhood development needs. Therefore, the District was not relieved of its obligation to perform such assessments as early as May 16, 2024 simply because the Student was not attending school or because the Student was placed in homebound instruction.<sup>34</sup>

Here, because Occupational Therapy, Physical Therapy, Orientation and Mobility, Adaptive Physical Education, and Speech and Language assessments and evaluations were not timely or appropriately developed, the May 16, 2024 and September 4, 2024 IEP Teams were deprived of critical evaluation information about the Student's developmental abilities as a student with a disability including the Student's occupational therapy needs, physical therapy needs, orientation and mobility needs, physical education needs, and speech and language needs. Such deprivation made it impossible for the IEP team to consider and recommend appropriate services necessary to address the Student's unique needs which resulted in a denial of FAPE.<sup>35</sup>

**C. From May 16, 2024 to the present were the Student's IEPs appropriately developed and tailored to the Student's unique individual needs, and reasonably calculated to enable the Student to receive educational benefits and make appropriate progress in light of the Student's circumstances, specifically with regards to transportation, school avoidance behavior, adaptive physical education, anxiety, and peer and adult social interactions? If not, was there a denial of FAPE?**

While the District has the burden of proof, the District did not present any evidence that the May 15, 2024 and September 4, 2024 IEPs were appropriately developed and tailored to the Student's unique individual needs regarding transportation, school avoidance behavior, adaptive

<sup>34</sup> While the consultation services for OT and PT required in the September 4, 2024 IEP provided some information, they were not done until the 2025 spring semester and there was no evidence that the consultations rose to the level of timely and appropriate assessments and evaluations in all areas of suspected disability and need.

<sup>35</sup> While recognizing that the Student had a physical therapy evaluation on February 5, 2025, and an occupational therapy evaluation on March 28, 2025 and April 4, 2025, the evaluations were not timely in order to appropriately develop the 2024-2025 IEPs.



physical education, anxiety and peer and adult social interactions, and reasonably calculated to enable the Student to receive educational benefits and make appropriate progress in light of the Student's circumstances. The supplemental aids and services for transportation, school avoidance behavior, adaptive physical education, anxiety, and peer and adult social interactions in the May 16, 2024 IEP were never implemented. In the September 4, 2024 IEP, supports and services were either paused (transportation and adaptive physical education), not implemented during homebound (social/emotional) or not included in the IEP as there was no BIP to address transportation issues, avoidance, anxiety, and peer and adult social interactions, nor an evaluation for adaptive physical education. The IEP team could not have designed an IEP that was appropriately developed and tailored to the Student's unique individual needs, and reasonably calculated to enable the Student to receive educational benefits and make appropriate progress in light of the Student's circumstances pertaining to transportation, school avoidance behavior, adaptive physical education, anxiety, and peer and adult social interactions. Therefore, the IHO finds that FAPE was denied.

**D. From May 16, 2024 to the present were the Student's IEPs properly implemented with regard to specially designed instruction and related services for Physical Therapy, Occupational Therapy, and Audiology? If not, was there a denial of FAPE?**

There is no evidence that the May 16, 2024 IEP was implemented for the remainder of the 2023-2024 school year, which ended on May 23, 2024, or that ESY services were provided after the end of the 2023-2024 school year. Therefore, the determination of this issue pertains to the September 4, 2024 IEP.

Nothing in the IDEA requires a district to provide a student with a full day of home instruction or to provide the same amount of special education instruction the student would have

received while attending school. *Renton Sch. Dist.*, 111 LRP 72136 (SEA WA 11/10/11). However, the amount of home instruction provided to a Student with a disability must be based on the student's unique needs. *See e.g. Elmore County Bd. Of Educ.*, 75 IDELR 207 (SEA CO 2002).

Homebound instruction was to be implemented on September 4, 2024 but did not start until October 2, 2024 due to the inability to find a teacher. The Hearing Officer finds that from September 4, 2024 to October 4, 2024 the Student was denied a FAPE as the Student did not receive SDI, supplementary aids and services, and related services.

With regards to SDI, a homebound placement creates significant challenges for a Student's family as the Homebound Teacher is prevented from providing services when anyone in the household is ill including the Student, or when the parent/guardian or when an adult designee cannot be present. Notwithstanding, the District takes the position that when homebound instruction is not provided due to illness in the home, including that of the Student, it does not make up instruction as such instruction would not be made up when a student who attends in-person school is sick. The IHO finds this to be an unreasonable policy in light of the unique circumstances of this case where the Student is homebound due to avoidance behavior which was not addressed in a BIP, and where the Student is receiving significantly less SDI than the Student would be if the Student could travel to school.

Finally, there are periods of time when the 1<sup>st</sup> Homebound Teacher did not provide the required 10 hours per week of SDI in the months of November and December, 2024, with no meaningful explanation as to the missed time, often noting "parent cancel." Based upon the testimony of the Parent, in that 1<sup>st</sup> Homebound Teacher asked the Parent to sign off on hours that the teacher did not complete, and the fact the teacher would not appear at the hearing to testify and that no affidavit from the teacher on this matter was provided, the IHO questions the veracity of

the records provided by the 1<sup>st</sup> Homebound Teacher. Therefore, the IHO finds that the Student did not receive the Student's required SDI during the months of November and December, 2024, and was therefore denied a FAPE. In addition, the IHO finds that SDI missed during periods of illness or when no adult was able to be present should have been made up and not doing so resulted in a denial of FAPE.

With regards to occupational and physical therapy services, the evidence shows that those services were provided in accordance with the 2024-2025 IEPs therefore FAPE was not denied. However, audiology services of 30 minutes for the school year were not provided to the Student therefore FAPE was denied.

**E. From May 16, 2024 to the present were the Parents significantly impeded from meaningfully participating and providing input to the IEP team regarding the decision to change the Student to Homebound Instruction? If so, was there a denial of FAPE?**

The Parents received timely Prior Notice of the September 4, 2024 IEP meeting. The Parents were informed that the purpose of the September 4, 2024 meeting was to go over the FBA. The Prior Notice also states that the proposed activities were to review/revise the IEP and educational placement, change in special education placement, and change in related services. During the September 4, 2024 IEP meeting the Team discussed a homebound placement and the Parent was present with her advocate. The Parent expressed that there should be a behavioral plan, that she wanted the Student to have more time to continue to build trust and get comfortable riding the bus and wanted the same reinforcers to be used and would like alternate transportation methods to be considered. The Parent also requested 10 rather than five hours per week of homebound instruction. The Parent expressed her disagreement with the homebound placement and was timely given the Notice of Intent to Implement IEP.

The evidence does not establish that the Parent was significantly impeded from meaningfully participating and providing input to the IEP Team regarding the decision to change the Student to homebound instruction.

### **REMEDIES**

In any proceeding brought under the IDEA the Hearing Officer has the authority to order any relief necessary to ensure the Student receives a FAPE. *Letter to Armstrong*, 28 IDELR 3030 (OSEP) 1997. The only specific remedy requested by the Parent was for the District to fund the private residential placement of the Student at Perkins School for the Blind effective immediately through the Student's completion of high school plus all related transportation costs. As stated in this decision, that remedy is not available as there is no evidence that the Perkins School for the Blind is an available and appropriate placement for the Student given the Student's unique needs and/or whether the Student might be a candidate for placement and, if so, whether there was a vacancy for the Student.

In *Park v. Anaheim Union School District*, 464 F.3d 1025 (9<sup>th</sup> Cir. 2006) the court noted that compensatory education services can be awarded as appropriate equitable relief, citing 20 U.S.C. 1415 (i)(2)(B)(iii) ("shall grant such relief as the court determines appropriate"); *Parents of Student W. v Puyallup Sch. Dist.*, 31 F.3d 1489, 1496-97 (9<sup>th</sup> Cir. 1994)

**Based upon the credible evidence presented and the applicable law, the Hearing Officer finds that the following remedies are appropriate to address the District's denial of FAPE to the Student, and Orders that:**

1. Homebound instruction was to commence on September 4, 2024 and did not start until October 2, 2024, amounting to 30 hours of missed SDI. During the documented period of

homebound instruction, the Student received 17 hours of SDI in November, 2024, 12.5 hours in December, 2024, 20 hours in January, 2024, 28 hours in February, 2025, 20 hours in March, 2025 and 36 hours in April, 2025, for a total of 136 hours of missed SDI.

2. The District shall provide 136 hours of compensatory education during the extended school year (ESY) commencing on June 30, 2025, unless a later time is agreed to by the parties, in the areas of reading, written language, math, language and communication, and social /emotional skills. If the parent decides and the second Homebound Teacher is available, the compensatory education can be provided by the second Homebound Teacher with a 1:1 tactile ASL interpreter. If the Parent does not elect to use the 2<sup>nd</sup> Homebound Teacher and/or the 2<sup>nd</sup> Homebound Teacher is not available, the compensatory education shall be provided by a special education teacher with an endorsement pursuant to NAC 391.340, or similar endorsement if the teacher is from out of state, with the assistance of a 1:1 tactile ASL interpreter. The compensatory education shall be completed prior to the commencement of the 2025-2026 school year. The Student's DHH Teacher, or other DHH teacher if the Student's DHH Teacher is not available, shall provide updated teaching materials and ongoing consultation to the teacher providing the compensatory education. The teacher providing the compensatory education shall implement the September 4, 2024 IEP and shall maintain detailed progress reports regarding the Student's present levels in all areas taught and provide such materials to the DHH Teacher which shall be immediately placed in the Student's education record.

3. During the period of ESY services the District shall provide 45 minutes of vision services by a teacher of the visually impaired. These services shall be provided outside of the ESY SDI instruction time but in the presence of the Homebound Teacher and the 1:1 tactile ASL interpreter; the Homebound Teacher and the 1:1 tactile ASL interpreter shall be compensated by

the District for the extra time their presence is required. Services shall be documented by the vision teacher and immediately placed in the Student's education record.

4. During the period of ESY services the District shall provide 30 minutes of ESY audiology services from a board-certified audiologist. These services shall be provided outside of the ESY SDI instruction time but in the presence of the Homebound Teacher and the 1:1 tactile ASL interpreter; the Homebound Teacher and the 1:1 tactile ASL interpreter shall be compensated by the District for the extra time their presence is required. Audiology services shall be documented and immediately placed in the Student's education record.

5. Three calendar weeks prior to the commencement of the 2025-2026 school year the District shall cause to be developed a comprehensive BIP focused on transportation via the special needs bus or an alternative mode of transportation, school avoidance behavior, and anxiety as has been demonstrated by the Student during transportation incidents. The BIB developed shall be implemented with the goal of successfully transporting the Student to the high school so that the Student attends classes, and with the goal of successfully transporting the Student home at the end of the school day. All transportation supports and services shall be funded by the District including alternative modes of transportation (i.e. not the special needs bus). The BIB shall be immediately placed in the Student's education record and implemented at the commencement of the 2025-2026 School year.

6. Three calendar weeks prior to the commencement of the 2025-2026 school year the District shall have obtained comprehensive evaluations for the Student for occupational therapy, physical therapy, orientation and mobility, adaptive physical education, and speech and language. The evaluations shall be immediately placed in the Student's education record.

7. The IEP team for the Student's high school shall convene one week prior to the 2025-2026 to develop an IEP for the 2025-2026 school year. The IEP team shall address SDI, supplementary aids and services, and related services for the Student for in person schooling and for virtual schooling as set forth below.

8. For any time the student cannot attend school due to avoidance behavior, despite implementation of the BIP, homebound services shall be provided via virtual live instruction, i.e. using the Zoom or other virtual platform, so that the Student has access to the Student's SDI instruction provided by the high school. All supplemental aids and services, and related services set forth in the 2025-2026 IEP that can be provided at the virtual homebound placement shall be provided. A homebound teacher shall be present during virtual homebound instruction to assist with the virtual instruction and any supplemental aids and services, and a 1:1 tactile ASL interpreter shall be provided during all virtual homebound instruction. The District shall fund any technology or other materials required for the virtual homebound instruction if the Parents do not have such technology or materials available. The DHH teacher shall provide updated teaching materials and ongoing consultation to the homebound teacher assisting the Student during the virtual instruction. The homebound teacher providing the virtual instruction shall implement the Student's 2025-2026 IEP and shall maintain detailed progress reports regarding the Student. During the period of virtual homebound instruction, the District shall continue efforts, through implementation and/or modification of the BIP, for the Student to successfully attend the high school in person.

### **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 thirty (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 ten (10) days after receiving notice of the initial appeal. At the parties' request, this decision is being delivered to the parties by electronic mail. Receipt of this Decision and Order will be determined by the date of actual delivery.



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