

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

_____, Student, by and through
Parents _____
Petitioners,

No. 26C-DP-036-ADE

v.

ADMINISTRATIVE LAW JUDGE
DECISION

Arizona State Schools for the Deaf and
Blind,
Respondent.

HEARING: May 11-13, 2026,¹ followed by review of the official record captured and Closing Arguments received July 14, 2026.

APPEARANCES: Hope N. Kirsch, Esq. from the **LAW OFFICES OF KIRSCH-GOODWIN & KIRSCH** appeared on behalf of _____ ("Student"), by and through _____ ("Parent") (collectively as "Petitioners").

Assistant Attorney General Joseph Cada, Esq. and Assistant Attorney General Elizabeth Norman, Esq. of the **OFFICE OF THE ATTORNEY GENERAL** appeared on behalf of Arizona State Schools for the Deaf and Blind ("Respondent" and "ASDB").

WITNESSES: (in order of testimony)

Kimberly Aikens – **Special Education Teacher**

Michelle Wood – **Director of Special Education**, _____

Dr. Kymberly Marshall – **Special Education Consultant** (Expert)

Dr. Sarah Barba – **Director of Special Education, ASDB**

Twila Latini – **Special Education Consultant** (Expert)

Parent

Clarice West-Sanders – **Special Education Teacher**

Cathie Devers – **Special Education Consultant** (Expert)

Germaine Graham – **Speech Language Pathologist**

AMERICAN SIGN LANGUAGE ("ASL") INTERPRETERS:

Abigail Khavari

April Welch

Candis Gingras

Sandra Solomon

OBSERVERS:

Annette Reichman

¹ On May 27, 2026, OAH issued an AMENDED ORDER HOLDING RECORD OPEN which held the record open for the receipt of transcripts until the extended date of June 12, 2026, and specifically instructed the parties to submit Closing Arguments totaling no more than thirty (30) pages by July 14, 2026. Correspondence was not returned as undeliverable to either party. On June 12, 2026, OAH received hearing transcripts.

1 **ADMINISTRATIVE LAW JUDGE:** Jenna Clark.

2 **HEARING RECORD:**

3 Sandra Marruffo (CCR No. 50815) transcribed the official hearing record for these
4 proceedings which were timely received on June 12, 2026.²

5 **EXHIBITS ADMITTED INTO EVIDENCE:** The NOTICE OF HEARING, December 01,
6 2025, PreHEARING ORDER, February 11, 2026, Amended Special Education Due Process
7 Complaint ("AMENDED COMPLAINT"), December 23, 2025, December 29, 2025, January
8 09, 2026, and February 12, 2026 ORDERS GRANTING CONTINUANCE, February 09, 2026,
9 February 23, 2026, and April 06, 2026, MINUTE ENTRIES, Petitioners Exhibits 1-25,
10 Respondent Exhibits A-R, and the parties' CLOSING ARGUMENTS were admitted into the
11 evidentiary record.

12

Petitioners bring this due process action on behalf of Student, alleging that
13 Respondent violated the Individuals with Disabilities Education Act ("IDEA"), constituting
14 both procedural and substantive errors.

15 The law governing these proceedings is the IDEA found at 20 United States Code
16 ("U.S.C.") §§ 1400-1482 (as re-authorized and amended in 2004),³ and its implementing
17 regulations, 34 Code of Federal Regulations ("C.F.R.") Part 300, as well as the Arizona
18 Special Education statutes, Arizona Revised Statutes ("ARIZ. REV. STAT.") §§ 15-761
19 through 15-774, and implementing rules, Arizona Administrative Code ("ARIZ. ADMIN.
20 CODE") R7-2-401 through R7-2-406.

21 **PROCEDURAL HISTORY**

22 Student enrolled in the [REDACTED] for the 2025-26 academic term, and
23 was then referred to Respondent's campus, a limited local education agency ("LEA") and
24 [REDACTED] placement, to receive a Free and Appropriate Public Education ("FAPE").

25 On or about November 21, 2025, Petitioners filed a Special Education Due
26 Process ("COMPLAINT") with the Arizona Department of Education ("Department") against
27 [REDACTED] and Respondent that alleged six (6) violations of the IDEA against
28 both parties. On November 26, 2025, the Department issued a NOTICE OF HEARING setting

29

² The transcript is comprised of Vol. I (pgs. 1-242), Vol. II (pgs. 245-482), and Vol. III (pgs. 485-693).

30 ³ By Public Law 108-446, known as the "Individuals with Disabilities Education Improvement Act of 2004,"
IDEA 2004 became effective on July 01, 2005.

1 the matter for hearing at 9:00 a.m. on January 08, 2026, before the Office of
2 Administrative Hearings (“OAH”), an independent state agency.⁴

3 On December 01, 2025, the Tribunal issued a second PREHEARING ORDER to the
4 parties that scheduled a telephonic prehearing conference for December 23, 2026, at
5 11:00 a.m. Correspondence was not returned as undeliverable any party.

6 On December 23, 2025, during a telephonic prehearing conference, the parties
7 submitted a stipulated motion to continue in order to participate in mediation. By that same
8 date, the Tribunal issued an ORDER GRANTING CONTINUANCE that required the parties to
9 submit a Status Update by January 20, 2026. Correspondence was not returned as
10 undeliverable to any party.

11 On January 09, 2026, the parties submitted a stipulated motion to continue in order
12 to participate in rescheduled mediation. By that same date, the Tribunal issued an ORDER
13 GRANTING CONTINUANCE that required the parties to submit a Status Update by February
14 05, 2026. Correspondence was not returned as undeliverable to any party.

15 On February 09, 2026, upon acceptance of a NOTICE OF PARTIAL SETTLEMENT filed
16 by Petitioners on February 07, 2026, the Tribunal issued an ORDER VACATING SPECIAL
17 EDUCATION DUE PROCESS COMPLAINT, IN PART, that dismissed the COMPLAINT as to the
18 allegations made against [REDACTED] with prejudice.⁵

19 On February 11, 2026, Petitioners submitted their AMENDED COMPLAINT to OAH.

20 On February 19, 2026, Respondent submitted its reply to Petitioners’ AMENDED
21 COMPLAINT.

22 On February 24, 2026, the Tribunal issued a second PREHEARING ORDER to the
23 parties that scheduled a telephonic prehearing conference for March 09, 2026, at 9:00
24 a.m. Correspondence was not returned as undeliverable by either party.

25 On March 09, 2026, during the telephonic prehearing conference, the parties
26 asked the Tribunal to place the matter on docket for a 3-day hearing.

27 On April 06, 2026, the Tribunal issued an AMENDED HEARING ORDER that set the
28 above-captioned matter for hearing May 11-13, 2026, to commence at 9:00 a.m. daily.

29 ⁴ On April 20, 2023, the matter was continued and set for a STATUS UPDATE on May 05, 2023, which was
30 extended through May 19, 2023.

⁵ See Respondent Exhibit Q.

On April 13, 2026, the Tribunal issued a MINUTE ENTRY affirming a prior ruling requiring Respondent to furnish a court reporter for each date of continued proceedings, May 11-13, 2026, in accordance with 20 U.S.C. § 1415(h)(3) and 34 C.F.R. §§ 300.512(a)(4-5) and 300.512(c)(3). Additionally, the Tribunal reiterated that the court reporter's transcripts would serve as the official hearing record for the matter.

ISSUES AT HEARING

Based on a review of the AMENDED COMPLAINT, the Administrative Law Judge ("ALJ") determined the following issues were raised for determination at the due process hearing:

- (1) **Whether Respondent violated 34 C.F.R. §§ 300.320(a) and 300.324(b) by failing to develop and implement a new writing goal for Student?**
Specifically, Petitioners allege that Respondent denied Student FAPE by leaving him with no written expression goal, no means to make progress, and no access to specially designed instruction or meaningful educational benefit because he "mastered" his writing goal in December 2024 and Respondent failed develop a new goal.
- (2) **Whether Respondent violated 34 C.F.R. §§ 300.320(A)(2) and 300.324(b) by failing to develop and implement a new math goal for Student?**
Specifically, Petitioners allege that Respondent denied Student FAPE by leaving him with no math goal, no means to make progress, and no access to specially designed instruction or meaningful educational benefit because he "mastered" his math goal in May 2025 and Respondent failed develop a new goal.
- (3) **Whether Respondent violated 34 C.F.R. §§ 300.39, 300.320(a), and 300.324(a) by removing direct instruction in ASL before Student mastered proficiency?** Specifically, Petitioners allege that despite Student not mastering ASL communication skills required under the second Exit Criterion, Respondent denied Student FAPE by removing programming necessary to teach him the ASL skills the criterion demanded.
- (4) **Whether Respondent violated 34 C.F.R. §§ 300.39, 300.320, and 300.324(a) in its issuance of IEPs in October 2024, December 2024, and October**

2025? Specifically, Petitioners allege that Respondent denied Student FAPE by failing to provide ambitious goals and specially designed instruction/direct services in reading skills, writing, math, English language development, receptive and expressive ASL language development, and functional communication.

(5) **Whether Respondent violated 34 C.F.R. §§ 300.303, 300.304, 300.305, 306, 300, 300.513 by failing to evaluate Student's ability to use an ASL interpreter?** Specifically, Petitioners allege that despite Parent's repeated requests, and despite Exit Criterion requiring an evaluation, Respondent significantly impeded Parent's participation, resulted in a loss of educational opportunity, and deprived Student of an educational benefit by failing to evaluate.

REQUESTED REMEDIES

- Direct Respondent to provide Student compensatory services or a compensatory fund for writing for failing to add a new goal after he mastered the writing goal in December 2024;
- Direct Respondent to provide Student compensatory services or a compensatory fund for math for failing to add a new goal after he mastered the math goal in May 2025;
- Direct Respondent to arrange for an evaluation to determine if Student met either or both Exit Criterion, showing data to Parent;
- Find Petitioners are the prevailing party;
- Award attorney's fees and costs, to the extent allowable under 20 U.S.C. § 1415(i)(3)(B), if pursuant in separate action in federal court, or deferring to the jurisdiction of the District Court and/or Ninth Circuit Court of Appeals for deciding such fees, costs and expenses; and
- An order of such other and further relief as the Tribunal deems just and proper.

The Tribunal has considered the entire hearing record, including witness testimony and admitted exhibits, and now makes the following Findings of Fact, Conclusions of Law,

and Ruling finding that Petitioners have demonstrated that Respondent substantively or procedurally violated the IDEA through the aforementioned allegation(s), in part, set forth in the AMENDED COMPLAINT. Petitioners' requested remedies are granted in part, and denied in part. The credible and material evidence of record is as follows:

FINDINGS OF FACT

BACKGROUND

1. ASDB meets the federal definition of "local educational agency" under 20 U.S.C. §§ 1401(19) and 7801(30). This means that ASDB is responsible for the administration of general and special education services, including the provisions of FAPE.

2. ASDB was founded in 1912 and serves over 2,000 children who are blind, visually impaired, deaf, hard of hearing or deafblind from birth to 12th grade.⁶ The ASDB Tucson campus maintains both a day program and a residential program.⁷ Students participating in the day program attend school during the day and then return home later in the afternoon.⁸ The Tucson campus has over 25 buildings, athletic recreational facilities, dormitories, libraries, laboratories and classrooms.⁹

3. Student [REDACTED] attended preschool at [REDACTED] [REDACTED] in Mexico.¹⁰ In the summer of 2021 Student's family moved to the United States.¹¹ Student was first identified as eligible for special education and related services on August 13, 2021, during his [REDACTED] under the Hearing Impairment educational category.¹² Both of Student's parents and his younger brother have hearing loss.¹³ Student has profound bilateral sensorineural hearing loss.¹⁴ Due to the severity of his hearing impairment hearing aid use would not provide Student consistent access to

⁶ See Petitioners Exhibit 21.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ See Petitioners Exhibit 4.

¹¹ *Id.*

¹² See Petitioners Exhibit 1.

¹³ *Id.*

¹⁴ See Respondent Exhibit A.

speech, particularly in a typical classroom setting.¹⁵ Student's primary language is Mexican Sign Language ("LSM") and his language of instruction is ASL.¹⁶

4. On January 30, 2023, Student was administered the Arizona English Language Learner Assessment whereby he showed strengths in Reading and significant needs in Writing, Listening, and Speaking.¹⁷ Specifically, although it was determined that Student had a strong aptitude for math, it was also determined that he was reading at approximately a [REDACTED] level.¹⁸

5. The start of the 2024-25 academic term commenced Student's [REDACTED] year at ASDB.¹⁹

6. On October 22, 2024, Student's Individualized Education Program ("IEP") team convened and determined that he had educational needs in Math, Reading, Written Expression, ASL Services, Audiology, and Special Education Transportation.²⁰ Although it was noted that Student had not met any of his prior IEP goals, he was not found eligible for Extended School Year ("ESY") because the team determined that he had made steady and continuous progress towards those goals.²¹ The IEP team specifically noted that Student's progress towards his goals showed the he had not demonstrated significant regression or limited recoupment of skills that required instruction over extended breaks within the school year.²² The IEP team also determined that in order for Student to return and be successful in public school he would have to (1) be able to communicate both expressively and receptively using ASL, and (2) be able to use a sign language interpreter for access to education.²³

a. On October 28, 2024, a corresponding Prior Written Notice ("PWN") was issued by Petitioners by ASDB.²⁴

¹⁵ See Respondent Exhibit I.

¹⁶ See Respondent Exhibit D.

¹⁷ See Respondent Exhibit A.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ See Respondent Exhibit B.

7. The start of the 2024-25 academic term commenced Student's year at ASDB.²⁵

8. On October 20, 2025, Student's IEP team convened and determined that Student's present levels for Reading, Writing, and Math were at ██████████ level.²⁶ The team determined that Student had educational needs in Math, Reading, Written Expression, and Audiology.²⁷ The team also noted that because Student had met 3 of his prior 4 IEP goals he was not found eligible for ESY, as he was not in a critical stage of development in any of said goals.²⁸ Exit Criterion were not modified.

a. On October 24, 2025, a corresponding PWN was issued by Petitioners by ASDB.²⁹

HEARING EVIDENCE

2. On May 14, 2024, while Student was in [REDACTED] grade, he was administered the Arizona Academic Standards Assessment (“AASA”).³⁰ For the English Language Arts (“ELA”) category test scores fall within 4 ranges: Minimally Proficient (2395-2496), Partially Proficient (2497-2508), Proficient (2509-2540), and Highly Proficient (2541-2605) to identify if a student is likely to be ready for the next grade level.³¹ The State average was 2497.³² Student scored [REDACTED] evincing minimal understanding of the expectations for the tested grade, as well as a need for additional support in order to be ready for the next grade level.³³ Specifically, Student scored [REDACTED] in Reading for Information, Reading for Literature, and Writing and Language. For the Mathematics category test scores fall within 4 ranges: Minimally Proficient (3395-3494), Partially Proficient (3495-3530), Proficient (3531-3572), and Highly Proficient (3573-3605) to identify if a student is likely to be ready for the next grade level.³⁴ The State average was 3516. Student scored [REDACTED] evincing minimal understanding of the

²⁵ See Respondent Exhibit I.

26 *Id.*

27 *Id.*

28 *Id.*

²⁹ See Respondent Exhibit J.

³⁰ See Petitioners Exhibit 13.

31 *Id.*

32 *Id.*

33 *Id.*

34 *Id.*

expectations for the tested grade, as well as a need for additional support in order to be ready for the next grade level.³⁵ Specifically, Student scored [REDACTED] in Operations, Algebraic Thinking, and Numbers in Base Ten, Numbers and Operations – Fractions, and Measurement, Data, and Geometry.³⁶

3. On November 01, 2024, and November 12, 2024, Student was administered an ASL Evaluation by ASDB.³⁷ Specifically, Student was subjected to the ASL Expressive Skills Test (“ASL-EST”) and ASL Receptive Skills Test (“ASL-RST”). Student received the following results:

- a. ASL-EST: Student scored [REDACTED]³⁸
- b. ASL-RST: Student scored [REDACTED].³⁹
- c. Overall, Student’s scores placed his performance between average and high average for his age. Because results suggested that Student no longer required direct ASL support services to access his educational curriculum effectively, it was recommended that he be transitioned out of ASL services with continued monitoring and support.⁴⁰ It was opined that Student’s ASL skills would grow as a result of exposure at home and school.⁴¹

4. On December 11, 2024, Student’s IEP team held an addendum meeting whereby Student’s ASL evaluation results were reviewed.⁴² Ultimately, it was determined that Student’s ASL goal would be removed from his IEP and that he would be dismissed from ASL services.⁴³ Exit Criterion were not modified.

- a. On December 17, 2024, a corresponding PWN was issued by Petitioners by ASDB.

³⁵ *Id.*

³⁶ *Id.*

³⁷ See Respondent Exhibit C.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² See Respondent Exhibit D.

⁴³ *Id.*

5. On May 28, 2025, while Student was in [REDACTED] grade, he was administered the AASA again.⁴⁴ For the ELA category test scores fall within 4 ranges: Minimally Proficient (2400-2509), Partially Proficient (2510-2522), Proficient (2523-2558), and Highly Proficient (2559-2610) to identify if a student is likely to be ready for the next grade level.⁴⁵ The State average was 2518.⁴⁶ Student scored [REDACTED] evincing minimal understanding of the expectations for the tested grade, as well as a need for additional support in order to be ready for the next grade level.⁴⁷ For the Mathematics category test scores fall within 4 ranges: Minimally Proficient (3435-3529), Partially Proficient (3530-3561), Proficient (3562-3605), and Highly Proficient (3606-3645) to identify if a student is likely to be ready for the next grade level.⁴⁸ The State average was 3548.⁴⁹ Student scored [REDACTED] evincing minimal understanding of the expectations for the tested grade, as well as a need for additional support in order to be ready for the next grade level.⁵⁰

ADDITIONAL EVIDENCE

6. Student's Progress Reports for the 2023-24, 2024-25, and 2025-26 academic terms reflect the following:

- a. December 22, 2023: Student can write 3-4 word sentences and read [REDACTED] sight words.⁵¹ Student is able to solve [REDACTED] subtraction problems.⁵² Student is able to express *what happened* predicates.⁵³
- b. March 15, 2024: Student is learning who/what/when ASL signs and writing the beginning of sentences with appropriate capital letters.⁵⁴ Student can read [REDACTED] sight words.⁵⁵ Student is learning regrouping strategies in subtraction using base-ten blocks.⁵⁶ Student is expressing *what happened*

⁴⁴ See Petitioners Exhibit 13.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

50 *Id.*

⁵¹ See Petitioners Exhibit 5

52 *Id.*

53 *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

56 *Id.*

as a predicate, and with prompting will also include *who* or *what* for his subject.⁵⁷

- c. May 23, 2024: Student is learning who/what/when ASL signs and writing the beginning of sentences with appropriate capital letters and then choosing which 3 different predicates (what happened, has, and describe) to complete his sentence in ASL and English with repetitive practice.⁵⁸ Student can read [REDACTED] sight words.⁵⁹ Student continues to use regrouping strategies in subtraction using base-ten blocks.⁶⁰ Student retells a story describing *what happened* including emotions and expressions, and with prompting can also include *who*, *what*, and *where* for the story.⁶¹
- d. October 04, 2024: Student is continuing to work on practicing identifying subjects and predicates.⁶² He will describe them in ASL and write in English with support from his teacher.⁶³ Student can read [REDACTED] kinder sight words and [REDACTED] 1st grade sight words. Student is able to read a total of [REDACTED] and is making progress in his reading skills.⁶⁴ Student continues to practice regrouping in subtraction and is learning to add both with and without regrouping.⁶⁵ Student can retell a story to describe the character with a single prompt.⁶⁶
- e. December 17, 2024: Student retained [REDACTED] assessment words and learned [REDACTED] introduced words.⁶⁷ Student successfully wrote 4 sentences.⁶⁸ Student did [REDACTED]
[REDACTED].⁶⁹ Student met his ASL goal with a 75%.⁷⁰

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ See Respondent Exhibit F.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

- 1 f. March 10, 2025: Student learned [REDACTED] high-frequency sight words.
2 Mastered [REDACTED] with 80%+ accuracy.⁷¹ Student successfully wrote 3
3 sentences.⁷² Student achieved 100% accuracy on all addition problems but
4 still has difficulties mastering subtraction that requires regrouping.⁷³
- 5 g. May 23, 2025: Student passed [REDACTED] Bedrock vocabulary, knowing [REDACTED]
6 [REDACTED] words.⁷⁴ Student consistently includes subject and predicate in
7 sentences, and has begun incorporating objects too.⁷⁵ Student achieved
8 [REDACTED] in solving double-digit subtraction problems requiring
9 regrouping but struggles with subtraction involving borrowing.⁷⁶
- 10 h. October 03, 2025: When Student returned to school September 22, 2025,
11 he took a Word List assessment and scored [REDACTED], which has since
12 increased to [REDACTED].⁷⁷ Student also mastered [REDACTED] vocabulary
13 words.⁷⁸ Student demonstrated the ability to write a few sentences in his
14 journal.⁷⁹ Student solved [REDACTED] problems with
15 borrowing.⁸⁰
- 16 i. December 19, 2025: Student is able to identify [REDACTED] high-frequency
17 vocabulary words in sentence format.⁸¹ Student got [REDACTED] one-digit by
18 three-digit division problems correctly with the support of a teacher.⁸²

19 FURTHER CONSIDERATIONS

20 7. Dr. Marshall testified that IEP goals and related services need to be
21 appropriately ambitious, comprehensive, and unique to a student's circumstances.
22 Specifically, goals are measured by determining if and how much a student has made
23 grade-level progress in a skill or subject area. Dr. Marshall opined that during Student's

24 ⁷¹ *Id.*

25 ⁷² *Id.*

26 ⁷³ *Id.*

27 ⁷⁴ *Id.*

28 ⁷⁵ *Id.*

29 ⁷⁶ *Id.*

30 ⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ See Respondent Exhibit P.

⁸² *Id.*

1 [REDACTED] term he was significantly [REDACTED] goal, that his writing goal was [REDACTED]
2 [REDACTED], but that his [REDACTED] to achieve the
3 objective. Dr. Marshall noted that it was unclear to identify an annual goal when reviewing
4 Student's IEP because a baseline had not first been identified – making it questionable
5 to measure progress or regression, if any. Dr. Marshall did note, however, that there is
6 no federal or state regulation that says an IEP team must reconvene immediately every
7 time a student masters a goal.

8 8. Ms. West-Sanders testified that as Student's primary instructor for the [REDACTED]
9 [REDACTED], she did not create an individualized lesson plan for student but instead utilized
10 the same weekly lesson plan for all students in her class. Ms. West-Sanders clarified that
11 when Student first started in the Fall he was reading at a [REDACTED] level but increased to
12 a [REDACTED] level during the second month of the term, whenever Student met any of his
13 goals early they were not replaced with new goals, and that she reviewed his IEP up to
14 every 2-weeks to assess whether he had met one or more goals.

15 9. Dr. Barba testified that Student did not possess the skills to meet IEP Exit
16 Criterion because his ASL was not strong enough to access the educational curriculum
17 with interpreter assistance. Dr. Barba also testified that between December 2025 and
18 March 2026, Student showed signs of regression in language.

19 10. Ms. Latini testified that Student's IEP goal for ASL should not have been
20 removed because he was not fluid in his ability to communicate his thoughts and feelings.

21 11. Ms. Graham testified that she could provide ASL services requested by
22 Petitioners and opined that it would take approximately 2-years, at 1-hour per week, for
23 Student to achieve appropriate grade-level goals.

24 12. Ms. Aikens testified that although no progress monitoring data was used to
25 measure IEP goal progress, the IEP team nonetheless decided to remove Student's
26 communication goal from his IEP.

27 13. Parent testified that everyone in her home is deaf, Student included, and
28 that they all began learning ASL when the family moved to the United States when
29 Student was [REDACTED] old. Although Student was making progress in his ASL abilities,
30 those dwindled and outright stopped during his [REDACTED] term.

CLOSING ARGUMENTS

Respondent's Closing Argument

14. In closing, Respondent argued that Petitioners failed to establish a denial of FAPE in connection with writing goals, math goals, and the provision of ASL services and communication goals. Respondent also argued that Petitioners failed to establish one or more procedural violations that deprived Student of a substantial right under the IDEA.

15. Respondent denied that programming provided to Student fell below standards set by the IDEA, and argued that Petitioners simply opined that different programming should have been provided but failed to prove that the programming Respondent actually provided was insufficient. Respondent argued that programming it provided had been reasonably calculated to enable Student to receive educational benefits, which he did receive.

16. Respondent argued that Petitioners incorrectly asserted that the IDEA requires an IEP team to immediately convene and write a replacement goal once a student has met a goal, but that 34 C.F.R. § 300.324(b)(1)(i) only requires that an IEP team review a student's IEP "periodically, but not less than annually, to determine whether the annual goals for the child are being achieved." There is no authority requiring perpetual amendment every time a benchmark is achieved.

17. Respondent argued that removing one ASL communication goal, after Student satisfactorily met it, did not remove all ASL instruction and services from his programming. Respondent opined that removal was appropriate based on his ASL evaluation score, the fact that he was taught by a certified teacher of the deaf and hard of hearing, and attended a special class devoted to learning ASL once a week. Respondent vehemently denied that it had failed to take action to close Student's ASL gaps.

18. Respondent further argued that none of Petitioners' alleged procedural violations constituted an independent basis for relief or constituted compensable injury, opining that Petitioners failed to demonstrate any procedural error resulting in the deprivation of a substantive right under the IDEA.

1 19. Ultimately, Respondent opined that the totality of the evidence established
2 that it had met its obligations under the IDEA to provide Student with FAPE, developed
3 individualized and appropriate IEPs with goals and services reasonably calculated to
4 enable Student to make progress appropriate in light of his circumstances during the
5 relevant time period.

6 **Petitioners' Closing Argument**

7 20. In closing, Petitioners argued that despite attending ASDB for ■■■ years,
8 Student made, at most, minimal progress, and at times regressed academically in
9 Language, Communication, and ASL skills. Petitioners argued that ASDB failed to provide
10 specially designed instruction ("SDI") targeted to Student's identified needs, eliminated
11 critical ASL instruction despite continuing language deficits, and developed IEPs that
12 were not appropriately ambitious for him. Petitioners opined that as a result Student
13 remained 2-3 grade levels below in academics and unable to demonstrate ASL
14 proficiency necessary to access instruction in a less restrictive environment on a
15 comprehensive school campus rather than continued placement at ASDB.

16 21. Petitioners argued that the record established Student's MET and IEP
17 teams determined that he required SDI in Writing and Math. ASDB failed to write new
18 Writing and Math goals when Student met them. Petitioners argued that although 34
19 C.F.R. § 300.324(b)(1)(ii)(A), (D) and (E) explicitly required IEP revision whenever a
20 student is not making expected progress, and that the federal regulations also required
21 revision to address "the child's anticipated needs" and "other matters." Per Petitioners,
22 mastery of an annual goal is precisely the type of "other matter" requiring IEP review and
23 revision. Maintenance of previously acquired skills is not educational progress. Petitioners
24 argued that once Student mastered his IEP goals, ASDB was obligated to establish new
25 measurable annual goals addressing his continuing educational needs. Providing
26 instruction without individualized goals did not satisfy IDEA requirements. Petitioners
27 opined that by failing to develop new goals that built upon Student's demonstrated
28 progress, ASDB denied him "the chance to meet challenging objectives," and denied
29 Student FAPE in writing and math during the periods he was without new measurable
30 goals.

1 22. Petitioners argued that despite uncontroverted evidence that Student had
2 not achieved ASL proficiency or mastered communication skills required under the
3 second Exit Criterion, ASDB never wrote an IEP goal, provided instruction, or created any
4 opportunity for him to develop interpreter-readiness skills. Instead, Student was confined
5 to direct ASL instruction that left him unprepared to access an inclusive environment
6 where content is delivered in spoken English through an ASL interpreter. Petitioners
7 argued that Student has a continuous need for instruction in both expressive and
8 receptive ASL. Because he is profoundly deaf and ASL is not his first language, limiting
9 instruction to only sentence structure and basic vocabulary was neither reasonable nor
10 appropriate for Student. Petitioners argued that Student's ability to engage in casual
11 conversation with Ms. Devers did not demonstrate the academic language proficiency
12 necessary to access grade-level instruction through an interpreter. As such, Petitioners
13 opined that Student's IEP should have included goals specifically designed to strengthen
14 both receptive and expressive ASL so that he could communicate clearly and receive
15 communication clearly.

16 23. Ms. Latini testified that deaf students must receive explicit instruction and
17 guided practice in working with educational interpreters before they can successfully
18 access interpreted instruction. Despite repeated requests from Parent, ASDB never
19 provided Student with an interpreter for instructional purposes. That refusal denied
20 Student the very opportunity to acquire the skills it later claimed he lacked. The record
21 reflects that Student lacks academic language proficiency, produces only brief, simple
22 signed expressions, and has not acquired the linguistic tools needed to express complex
23 thought in ASL. Per Ms. Latini, "a significant gap exists between [Student's] functional
24 social engagement and his actual linguistic depth." The absence of any
25 ASL/Communication goal and SDI in the December 2024 and October 2025 IEPs denied
26 Student any meaningful opportunity to develop ASL proficiency and progress toward
27 ASDB's own second Exit Criterion.

28 24. Petitioners opined that baselines exist to measure student growth. During
29 her testimony Ms. Akins admitted that missing baselines or errors in baseline make it
30 difficult to the point of near impossibility to measure progress because there is no way to
know how much progress a special education student makes. Ms. Devers testified that

1 the absence of speaking and listening goals built into Student's IEP insufficient to meet
2 Student's documented English language needs. Dr. Marshall testified that the October
3 2024 IEP did not enable Student to receive an educational benefit because it was "too
4 limiting and disjointed" with goals that do not align to Student's present levels of
5 performance. That IEP only contained a single reading goal, a single writing goal, and a
6 single math calculation goal. Per Dr. Marshall, the reading goals were inadequate
7 because they failed to address all five essential reading domains: phonemic awareness,
8 phonics, decoding, vocabulary, fluency, and comprehension. The IEP only required
9 simple sentences rather than age-appropriate paragraph writing, the math goal omitted
10 problem- solving, word-problem, and measurement skills, and the IEP included no goals,
11 services, or supports addressing ASDB's own Exit Criterion. The IEP as a whole was too
12 minimal and not comprehensive. Goals were not appropriately ambitious. Present levels,
13 goals, and services did not align to enable Student to receive educational benefit. The
14 2024 IEPs did not provide for more than *de minimis* progress. Providing a single, non-
15 ambitious goal per subject while leaving documented areas of need unaddressed falls far
16 short of the educational program required for a student performing years below grade
17 level. Comprehensive testing of this kind is necessary for the IEP team to understand why
18 Student continued to struggle and what, specifically, was impeding his progress as such
19 information is critical to crafting an appropriate IEP. ASDB's attribution of Student's delays
20 to his deafness is speculative, particularly where ASDB never conducted a
21 comprehensive evaluation that likely would have tested that hypothesis.

22 25. Ms. Devers also testified that the October 2025 IEP's math goal was
23 misaligned with the State's academic standard and not calibrated to any grade-level
24 benchmark. That IEP also omitted a communication goal. Petitioners agreed that without
25 a communication goal the IEP was not reasonably calculated to enable Student to make
26 progress in light of his deafness. Despite minimal progress ASDB made no meaningful
27 changes to Student's program. Quarterly data showed regression. For the first seven
28 months of the 2024-25 academic term Student's classroom teacher did not possess a
29 teaching certificate. ASDB failed to document whom, if anyone, with proper certification
30 or under the direct supervision of someone with proper certification delivered Student's
SDI during that period.

1 26. Petitioners opined that SDI is not adaptation in the abstract. Specifically, it
2 is adaptation designed to help a special education student meet goals addressing their
3 unique circumstances and make progress appropriate to those circumstances. Here,
4 there is no evidence in the record that Student received any form of SDI. What the record
5 reflects is an absence of evidence to support a finding that Student reasonably received
6 adapted content or delivery of instruction tied to his unique disability-related needs.

7 27. Petitioners further opined that a LEA's duty to conduct a re-evaluation when
8 it determines that a student's educational or related service needs warrant one or when
9 a parent requests one. Petitioners argued that the duty is mandatory, not discretionary.
10 Although ASDB's Exit Criterion required Student to demonstrate the ability to use an ASL
11 interpreter before returning to a less restrictive environment, they nonetheless failed to
12 assess his ability to use an ASL interpreter. Thusly, the IEP team lacked data necessary
13 to determine Student's communication needs or whether changes to his special education
14 or related services were required. Moreover, by refusing to conduct the requested
15 evaluation this failure also significantly impeded Parent's ability to meaningfully
16 participate in the IEP process. Per Petitioners, this violation also deprived Student of an
17 educational benefit. Without evaluation data, the IEP team had no evidentiary basis to
18 determine whether Student he could meaningfully access instruction through an ASL
19 interpreter or what communication deficits, if any, required SDI. Petitioners argued that
20 this constituted a procedural violation which also rendered the IEP substantively deficient.

21 **CONCLUSIONS OF LAW**

22 **APPLICABLE LAW**

23 1. Congress enacted the IDEA to ensure that all students with disabilities are
24 offered a FAPE that meets their individual needs.⁸³ The IDEA does not define the level of
25 education that must be provided, except that it must be "reasonably calculated to enable
26 the student to receive educational benefits."⁸⁴ Through the IDEA, Congress has sought
27 to ensure that all students with disabilities are offered a FAPE that meets their individual
28 needs.⁸⁵ These needs include academic, social, health, emotional, communicative,

29 ⁸³ *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1500 (9th Cir. 1996).

30 ⁸⁴ *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist., Westchester Cnty. v. Rowley*, 458 U.S. 176, 201 (1982)

⁸⁵ 20 U.S.C. §1400(d); 34 C.F.R. § 300.1.

physical, and vocational needs.⁸⁶ To do this, school districts must identify and evaluate all students within their geographical boundaries who may be in need of special education and services. The IDEA sets forth requirements for the identification, assessment and placement of students who need special education, and seeks to ensure that they receive a free appropriate public education. The IDEA mandates that school districts provide a “basic floor of opportunity.”⁸⁷

2. A FAPE consists of “personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.”⁸⁸ The FAPE standard is satisfied if the student’s IEP sets forth his or her individualized educational program that is “reasonably calculated to enable the child to receive educational benefit.”⁸⁹ Therefore, a school offers a FAPE by offering and implementing an IEP “reasonably calculated to enable [a student] to make progress appropriate in light of [the student’s] circumstances.”⁹⁰ The IDEA does not require that each student’s potential be maximized.⁹¹ A student receives a FAPE if a program of instruction “(1) addresses his unique needs, (2) provides adequate support services so he can take advantage of the educational opportunities and (3) is in accord with an individualized educational program.”⁹²

3. Once a student is determined to be eligible for special education services, a team composed of the student’s parents, teachers, and others formulate an IEP that, generally, sets forth the student’s current levels of educational performance and sets annual goals that the IEP team believes will enable the student to make progress in the general education curriculum.⁹³ The IEP tells how the student will be educated, especially

⁸⁶ *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1500 (9th Cir. 1996) (quoting H.R. Rep. No. 410, 1983 U.S.C.C.A.N. 2088, 2106).

⁸⁷ *Rowley*, 458 U.S. at 200.

⁸⁸ *Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 204 (1982).

⁸⁹ *Id.*, 485 U.S. at 207. In 2017, in *Endrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. ___, 137 S. Ct. 988, 2017 West Law 1234151 (March 22, 2017), the Supreme Court reiterated the *Rowley* standard, adding that a school “must offer an IEP that is reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances,” but the Court declined to elaborate on what “appropriate progress” would look like case to case (*i.e.*, in light of a child’s circumstances).

⁹⁰ *Endrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. ___ (2017).

⁹¹ *Hendrick Hudson Central Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 198 (1982).

⁹² *Park v. Anaheim Union High Sch. Dist.*, 464 F.3d 1025, 1033 (9th Cir. 2006) (citing *Capistrano Unified Sch. Dist. v. Wartenberg*, 59 F.3d 884, 893 (9th Cir. 1995)).

⁹³ 20 U.S.C. § 1414(d); 34 C.F.R. §§ 300.320 to 300.324.

1 with regard to the student's needs that result from the student's disability, and what
2 services will be provided to aid the student. The student's parents have a right to
3 participate in the formulation of an IEP.⁹⁴ The IEP team must consider the strengths of
4 the student, concerns of the parents, evaluation results, and the academic,
5 developmental, and functional needs of the student.⁹⁵ To foster full parent participation,
6 in addition to being a required member of the team making educational decisions about
7 the student, school districts are required to give parents written notice when proposing
8 any changes to the IEP,⁹⁶ and are required to give parents, at least once a year, a copy
9 of the parents' "procedural safeguards," informing them of their rights as parents of a
10 student with a disability.⁹⁷

11 4. The IEP team must consider the concerns of a student's parents when
12 developing an IEP.⁹⁸ In fact, the IDEA requires that parents be members of any group
13 that makes decisions about the educational placement of a student.⁹⁹

14 5. A parent who requests a due process hearing alleging non-compliance with
15 the IDEA must bear the burden of proving that claim.¹⁰⁰ The standard of proof is
16 "preponderance of the evidence," meaning evidence showing that a particular fact is "more
17 probable than not."¹⁰¹

18 6. The IDEA's statute of limitations requires courts to bar claims made more
19 than two years after the parents "knew or should have known" about the actions forming
20 the basis of the complaints.¹⁰²

22 ⁹⁴ 20 U.S.C. § 1414(d)(1)(B); 34 C.F.R. §§ 300.321(a)(1).

23 ⁹⁵ 20 U.S.C. § 1414(d)(3)(A); 34 C.F.R. §§ 300.324(a).

24 ⁹⁶ 20 U.S.C. § 1415(b)(3); 34 C.F.R. § 300.503.

25 ⁹⁷ 20 U.S.C. § 1415(d); 34 C.F.R. § 300.503. Safeguards may also be posted on the Internet.
26 20 U.S.C. § 1415(d)(B).

27 ⁹⁸ 20 U.S.C. § 1414(d)(3)(A)(ii); 34 C.F.R. §§ 300.324(a)(1)(ii).

28 ⁹⁹ 20 U.S.C. § 1414(e); 34 C.F.R. §§ 300.327 and 300.501(c)(1).

29 ¹⁰⁰ *Schaffer v. Weast*, 546 U.S. 49, 56 (2005).

30 ¹⁰¹ *Concrete Pipe & Prods. v. Constr. Laborers Pension Trust*, 508 U.S. 602, 622, 113 S. Ct. 2264, 2279 (1993) (quoting *In re Winship*, 397 U.S. 358, 371-72 (1970)); see also ARIZ. REV. STAT. § 41-1092.07(G)(2); ARIZ. ADMIN. CODE R2-19-119(B)(1); *Culpepper v. State*, 187 Ariz. 431, 437, 930 P.2d 508, 514 (Ct. App. 1996); *In the Matter of the Appeal in Maricopa County Juvenile Action No. J-84984*, 138 Ariz. 282, 283, 674 P.2d 836, 837 (1983).

¹⁰² 20 U.S.C. §1415(f)(3)(C); see also *Avila v. Spokane Sch. Dist.* 81, 852 F.3d 936, 937 (9th Cir. 2017); *J.K and J.C. on behalf of themselves and K.K-R v. Missoula County Publ. Schools*, 713 F. App'x 666 (9th Cir. 2018).

7. Statutes should be interpreted to provide a fair and sensible result.¹⁰³ “In applying a statute its words are to be given their ordinary meaning unless the legislature has offered its own definition of the words or it appears from the context that a special meaning was intended.”¹⁰⁴

8. The Tribunal is required to apply equitable principles when rendering decisions.¹⁰⁵ The application of equity entails offering a remedy to avoid an unconscionable or unjust result.¹⁰⁶

9. This Tribunal’s determination of whether Student received a FAPE must be based on substantive grounds.¹⁰⁷ A FAPE consists of “personalized instruction with sufficient support services to permit the child to benefit educationally from that instruction.”¹⁰⁸ Courts do not “substitute their own notions of sound educational policy for those of the school authorities which they review.”¹⁰⁹ In addition, the appropriateness of an offer of FAPE must be judged in light of the circumstances at the “snapshot in time” when the IEP was developed, not with the benefit of hindsight.¹¹⁰

10. Procedural violations in and of themselves do not necessarily deny a student a FAPE. If a procedural violation is alleged and found, it must be determined whether the procedural violation either (1) impeded the student’s right to a FAPE; (2) significantly impeded the parents’ opportunity to participate in the decision-making process; or (3) caused a deprivation of educational benefit.¹¹¹ If one of the three impediments listed has occurred, the student has been denied a FAPE due to the procedural violation.

ANALYSIS & DECISION

11. Petitioners filed the COMPLAINT in this matter on November 21, 2025; and AMENDED COMPLAINT on February 11, 2026, thus, the relevant period of time for the issues

¹⁰³ See *Gutierrez v. Industrial Commission of Arizona*, 226 Ariz. 395, 249 P.3d 1095 (2011)(citation omitted); *State v. McFall*, 103 Ariz. 234, 238, 439 P.2d 805, 809 (1968) (“Courts will not place an absurd and unreasonable construction on statutes.”).

¹⁰⁴ *Mid Kansas Federal Savings and Loan Ass’n of Wichita v. Dynamic Development Corp.*, 167 Ariz. 122, 128, 804 P.2d 1310, 1316 (1991).

¹⁰⁵ *Seitz v. Industrial Commission of Arizona*, 184 Ariz. 599, 603 (Ariz. Ct. App., Div. 1, 1995).

¹⁰⁶ *Sanders v. Folsom*, 104 Ariz. 283, 289, 451 P.2d 612 (Ariz. 1969)(quoting *Merrick v. Stephens*, 337 S.W.2d 713, 719 (Mo. App. 1960)).

¹⁰⁷ 20 U.S.C. § 1415(f)(3)(E)(i); 34 C.F.R. § 300.513(a)(1).

¹⁰⁸ *Rowley*, 458 U.S. at 203.

¹⁰⁹ *Id.* at 206.

¹¹⁰ *J.W. v. Fresno Unified Sch. Dist.*, 626 F.3d 431, 439 (9th Cir. 2010).

¹¹¹ 20 U.S.C. § 1415(f)(3)(E)(ii); 34 C.F.R. §§ 300.513(a)(2).

1 at bar run during Student's [REDACTED] grade academic terms. Therefore, any actions or
2 inactions that occurred prior to November 21, 2023, are beyond the limitations period.

3 12. To prevail in the case at bar, Petitioners must establish by a preponderance
4 of the evidence that Respondent procedurally and/or substantively violated the IDEA as
5 alleged in the AMENDED COMPLAINT.

6 **Claim #1 – Whether Respondent violated 34 C.F.R. §§ 300.320(a) and 300.324(b) by**
7 **failing to develop and implement a new writing goal for Student?**

8 13. 34 C.F.R. § 300.320(a) defines IEP as a written statement for each child
9 with a disability that is developed, reviewed, and revised in an IEP meeting that must
10 include (1) a statement of the child's present levels of academic achievement and
11 functional performance; including how the child's disability affects the child's involvement
12 and progress in the general education curriculum, (2) a statement of measurable annual
13 goals, including academic and functional goals designed to meet the child's needs that
14 result from the child's disability to enable the child to be involved in and make progress in
15 the general education curriculum and meet each of the child's other educational needs
16 that result from the child's disability, (3) a description of how the child's progress toward
17 meeting the annual goals will be measured and when related progress reports will be
18 provided, (4) an explanation of the extent, if any, to which the child will not participate with
19 nondisabled children in the general education classroom, (5) a statement of any
20 appropriate accommodations necessary to measure the academic achievement and
21 functional performance of the child on State and districtwide assessments, (6) a projected
22 date for the beginning of the services and modifications and the anticipated frequency,
23 location, and duration of those services and modifications.

24 14. 34 C.F.R. § 300.324(b) provides that each public agency must ensure that
25 the IEP team (a) reviews the child's IEP periodically, but not less than annually, to
26 determine whether the annual goals for the child are being achieved, (b) revise the IEP
27 as appropriate to address (i) any lack of expected progress toward annual goals and in
28 the general education curriculum, (ii) results of any reevaluation conducted, (iii)
29 information about the child provided by Parents, (iv) the child's anticipated needs, or (v)
30 other matters.

1 15. In December 2024 Student met his writing goal. Student's IEP was not
2 revised to add a new writing goal after the goal was met.

3 16. Here, Petitioners argue that IDEA regulations required Respondent to
4 revise Student's writing goal in order to address his anticipated needs and opined that
5 continued instruction constituted maintenance unequal to educational progress.

6 17. There is not a federal or state regulation that requires an IEP team to
7 immediately reconvene once a student masters a goal. Instead, the IDEA requires an IEP
8 team to review a student's IEP "periodically, but not less than annually" to determine
9 whether annual goals for a child are being achieved. Additionally, per 34 C.F.R. §
10 300.324(4) Parents of a child with a disability and the public agency may agree not to
11 convene an IEP team meeting for the purposes of making changes to a child's IEP after
12 the annual IEP team meeting for a school year and instead may develop a written
13 document to amend or modify the child's current IEP.

14 18. Once Student mastered his goal, Respondent was not obligated to establish
15 new measurable annual goals to address his continuing educational needs prior to his
16 annual IEP meeting. While the parties certainly could have executed an amendment to
17 add a new goal to Student's IEP, there is no evidence in the record to support a finding
18 that Parent ever made such a request or that Respondent refused.

19 19. Petitioners failed to sustain their burden of proof as to this allegation. No
20 procedural or substantive due process violation exists.

21 **Claim #2 – Whether Respondent violated 34 C.F.R. §§ 300.320(a)(2) and 300.324(b)**
22 **by failing to develop and implement a new math goal for Student?**

23 20. 34 C.F.R. § 300.320(a)(2) defines IEP as a written statement for each child
24 with a disability that is developed, reviewed, and revised in an IEP meeting that must
25 include a statement of measurable annual goals, including academic and functional goals
26 designed to meet the child's needs that result from the child's disability to enable the child
27 to be involved in and make progress in the general education curriculum and meet each
28 of the child's other educational needs that result from the child's disability.

29 21. 34 C.F.R. § 300.324(b) provides that each public agency must ensure that
30 the IEP team (a) reviews the child's IEP periodically, but not less than annually, to
determine whether the annual goals for the child are being achieved, (b) revise the IEP

as appropriate to address (i) any lack of expected progress toward annual goals and in the general education curriculum, (ii) results of any reevaluation conducted, (iii) information about the child provided by Parents, (iv) the child's anticipated needs, or (v) other matters.

22. In May 2025 Student met his math goal. Student's IEP was not revised to add a new math goal after the goal was met.

23. Here, Petitioners argue that IDEA regulations required Respondent to revise Student's writing goal in order to address his anticipated needs and opined that continued instruction constituted maintenance unequal to educational progress.

24. There is not a federal or state regulation that requires an IEP team to immediately reconvene once a student masters a goal. Instead, the IDEA requires an IEP team to review a student's IEP "periodically, but not less than annually" to determine whether annual goals for a child are being achieved. Additionally, per 34 C.F.R. § 300.324(4) Parents of a child with a disability and the public agency may agree not to convene an IEP team meeting for the purposes of making changes to a child's IEP after the annual IEP team meeting for a school year and instead may develop a written document to amend or modify the child's current IEP.

25. Once Student mastered his goal, Respondent was not obligated to establish new measurable annual goals to address his continuing educational needs prior to his annual IEP meeting. While the parties certainly could have executed an amendment to add a new goal to Student's IEP, there is no evidence in the record to support a finding that Parent ever made such a request or that Respondent refused.

26. Petitioners failed to sustain their burden of proof as to this allegation. No procedural or substantive due process violation exists.

Claim #3 – Whether Respondent violated 34 C.F.R. §§ 300.39, 300.320(a), and 300.324(a) by removing direct instruction in ASL before Student mastered proficiency?

27. 34 C.F.R. § 300.39 defines special education as SDI, at no cost to the parents, to meet the unique needs of a child with a disability, including speech-language pathology services, or any other related service. SDI means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of

1 instruction to address the unique needs of the child that result from the child's disability
2 and to ensure access of the child to the general curriculum, so that the child can meet the
3 educational standards within the jurisdiction of the public agency that apply to all school
4 children.

5 28. 34 C.F.R. § 300.320(a) defines IEP as a written statement for each child
6 with a disability that is developed, reviewed, and revised in an IEP meeting that must
7 include (1) a statement of the child's present levels of academic achievement and
8 functional performance; including how the child's disability affects the child's involvement
9 and progress in the general education curriculum, (2) a statement of measurable annual
10 goals, including academic and functional goals designed to meet the child's needs that
11 result from the child's disability to enable the child to be involved in and make progress in
12 the general education curriculum and meet each of the child's other educational needs
13 that result from the child's disability, (3) a description of how the child's progress toward
14 meeting the annual goals will be measured and when related progress reports will be
15 provided, (4) an explanation of the extent, if any, to which the child will not participate with
16 nondisabled children in the general education classroom, (5) a statement of any
17 appropriate accommodations necessary to measure the academic achievement and
18 functional performance of the child on State and districtwide assessments, (6) a projected
19 date for the beginning of the services and modifications and the anticipated frequency,
20 location, and duration of those services and modifications.

21 29. 34 C.F.R. § 300.324(a)(1) provides that in developing each child's IEP, the
22 IEP team must consider (i) the strengths of the child, (ii) concerns, if any, of Parents for
23 enhancing the education of their child, (iii) results of the initial or most recent evaluation
24 of the child, and (iv) the academic, developmental, and functional needs of the child. 34
25 C.F.R. § 300.324(2)(iv) provides that in the case of a child who is deaf or hard of hearing,
26 consider the child's language and communication needs, opportunities for direct
27 communications with peers and professional personnel in the child's language and
28 communication mode, academic level, and full range of needs, including opportunities for
29 direct instruction in the child's language and communication mode.

30 30. Although the Exit Criterion in Student's IEP required that he demonstrate
his ability to utilize an ASL interpreter before returning to a less restrictive environment,

1 his ASL communication goal and corresponding SDI was nonetheless removed by
2 Respondent. Respondent did not assess Student's ability to use an ASL interpreter.
3 Instead, Respondent relied on Student's November 2024 ASL Evaluation results.

4 31. Interestingly, Student's October 2024 IEP only addressed expressive ASL.
5 Neither broader language acquisition skills nor receptive ASL skills were included.
6 Student's October 2025 IEP lacked any instruction directed at teaching Student how to
7 use an interpreter.

8 32. It is undisputed that Student is profoundly deaf. ASL is not his first language.
9 His IEPs should have included goals specifically designed to strengthen both receptive
10 and expressive ASL so that he could "communicate clearly and receive communication
11 clearly. Nothing in the record establishes what instruction Student received in his weekly
12 ASL elective, or whether said instruction was tied to his IEP. It cannot reasonably be
13 argued that Student's ASL-immersive classroom and elective course provided an
14 adequate substitution for a measurable IEP goal addressing Student's identified receptive
15 and expressive ASL deficiencies. This conclusion is supported by the fact that in August
16 2025 Student was unable to transition to [REDACTED] School District because he still
17 required support in ASL and English, and because Student lacked skills to follow ASL-
18 interpreted instruction. As Ms. Latini noted, students must receive explicit instruction and
19 guided practice in working with educational interpreters before they can successfully
20 access interpreted instruction. Here, the record reflected that Student lacked academic
21 language proficiency and did not possess linguistic tools necessary to express complex
22 thoughts in ASL.

23 33. The absence of a subsequent ASL communication goal denied Student a
24 meaningful opportunity to progress toward Respondent's second Exit Criterion,
25 particularly in light of his circumstances.

26 34. Petitioners have sustained their burden of proof as to this allegation. Both
27 procedural and substantive due process violations exist.

28 **Claim #4 – Whether Respondent violated 34 C.F.R. §§ 300.39, 300.320, and**
29 **300.324(a) in its issuance of IEPs in October 2024, December 2024 [amended], and**
30 **October 2025?**

1 35. 34 C.F.R. § 300.39 defines special education as SDI, at no cost to the
2 parents, to meet the unique needs of a child with a disability, including speech-language
3 pathology services, or any other related service. SDI means adapting, as appropriate to
4 the needs of an eligible child under this part, the content, methodology, or delivery of
5 instruction to address the unique needs of the child that result from the child's disability
6 and to ensure access of the child to the general curriculum, so that the child can meet the
7 educational standards within the jurisdiction of the public agency that apply to all school
8 children.

9 36. 34 C.F.R. § 300.320(a) defines IEP as a written statement for each child
10 with a disability that is developed, reviewed, and revised in an IEP meeting hat must
11 include (1) a statement of the child's present levels of academic achievement and
12 functional performance; including how e child's disability affects the child's involvement
13 and progress in the general education curriculum, (2) a statement of measurable annual
14 goals, including academic and functional goals designed to meet the child's needs that
15 result from the child's disability to enable the child to be involved in and make progress in
16 the general education curriculum and meet each of the child's other educational needs
17 that result from the child's disability, (3) a description of how the child's progress toward
18 meeting the annual goals will be measured and when related progress reports will be
19 provided, (4) an explanation of the extent, if any, to which the child will not participate with
20 nondisabled children in the general education classroom, (5) a statement of any
21 appropriate accommodations necessary to measure the academic achievement and
22 functional performance of the child on State and districtwide assessments, (6) a projected
23 date for the beginning of the services and modifications and the anticipated frequency,
24 location, and duration of those services and modifications.

25 37. 34 C.F.R. § 300.324(a)(1) provides that in developing each child's IEP, the
26 IEP team must consider (i) the strengths of the child, (ii) concerns, if any, of Parents for
27 enhancing the education of their child, (iii) results of the initial or most recent evaluation
28 of the child, and (iv) the academic, developmental, and functional needs of the child. 34
29 C.F.R. § 300.324(2)(iv) provides that in the case of a child who is deaf or hard of hearing,
30 consider the child's language and communication needs, opportunities for direct
communications with peers and professional personnel in the child's language and

1 communication mode, academic level, and full range of needs, including opportunities for
2 direct instruction in the child's language and communication mode.

3 38. Here, Petitioners argue that the October 2024, [amended] December 2024,
4 and October 2025 IEPs all denied Student a FAPE due to failures to provide ambitious
5 goals and SDI/direct services in reading, writing and math, English language
6 development, and in receptive and expressive ASL language development.

7 39. Per Ms. Aikens, baselines exist to measure student growth. Missing
8 baselines or errors in baseline make it difficult to measure progress because there is no
9 way to know how much progress a student makes.

10 40. The IEP team knew, or should have known, that Student scored
11 *preemergent* for the State's English language proficiency standards. Therefore, the
12 amount of language instruction built into his IEP and the absence of speaking and
13 listening goals was insufficient for the IEPs at issue to meet Student's documented
14 English language needs.

15 41. The October 2024 IEP did not enable Student to receive an educational
16 benefit. Per Dr. Marshall, it was "too limiting and disjointed" with goals that did not align
17 to Student's levels of performance at that time. Student, then in [REDACTED] grade, was reading
18 and performing math at [REDACTED] grade levels. His IEP contained a single reading goal,
19 a single writing goal, and a single math calculation goal. Moreover, the IEP did not include
20 any goals, services, or supports addressing Respondent's second Exit Criterion, and the
21 SDI listed on the services page merely listed skills as opposed to describing adapted
22 content, methodology, or delivery that the IDEA requires. The October 2024 IEP was,
23 overall, based on expert opinions, too minimal, not comprehensive, goals were not
24 appropriately ambitious, and then-present levels, goals, and services did not align as they
25 were not robust enough to enable Student to receive educational benefit. It did not provide
26 for more than *de minimis* progress.

27 42. Per Dr. Marshall, the October 2025 IEP did not contain communication
28 goals necessary for Student to meet Respondent's second Exit Criterion. Per Ms. Devers,
29 without a communication goal, the IEP was not reasonably calculated to enable Student
30 to make progress in light of his deafness. Per Student's December 2025 and March 2026
progress reports, Student had minimal progress on the first language arts goal, his writing

goal performance declined, and his math goal showed progress only with the support of a teacher (despite the goal requiring independent performance).

43. Notably, for the first seven (7) months of the 2024-25 academic term, Student's classroom teacher did not possess a teaching certificate, and there was not an appropriately certified special education teacher who supervised delivery of SDI during that period of time. As Ms. West-Sanders admitted, Student received the same lessons, curriculum, vocabulary instruction, writing activities, and lesson plans as his classmates and individualized attention. The record is devoid of evidence that would otherwise establish that content was adapted to help Student meet goals addressing his unique circumstances and make progress appropriate to those circumstances.

44. Petitioners have sustained their burden of proof as to this allegation. A substantive due process violation exists.

Claim #5 – Whether Respondent violated 34 C.F.R. §§ 300.303, 300.304, 300.305, 306, 300, 300.513 by failing to evaluate Student’s ability to use an ASL interpreter?

45. 34 C.F.R. § 300.303 provides that a public agency must ensure that a reevaluation of each child with a disability is conducted if he public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation, or if e child's parent or teacher requests a reevaluation. Reevaluation may not occur more than once a year, unless the parent and the public agency agree otherwise, and must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

46. 34 C.F.R. § 300.304 provides that in conducting an evaluation, the public agency must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining Whether the child is a child with a disability and the content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum. A single measure of assessment may not be used as the sole criterion for determining whether a child is a child with a disability or for determining an appropriate educational program for the child. Assessments and other evaluation materials used to assess a child

are selected and administered so as not to be discriminatory on a racial or cultural basis, provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer, used for the purposes for which the assessments or measures are valid and reliable, administered by trained and knowledgeable personnel, and administered in accordance with any instructions provided by the producer of the assessments. The child must be assessed in all areas related to the suspected disability, and must also be sufficiently comprehensive to identify all of the child's special education and related services needs.

47. 34 C.F.R. § 300.305 provides that as part of an initial evaluation and as part of any reevaluation under this part, the IEP team and other qualified professionals, as appropriate, must review existing evaluation data on the child; including (i) evaluations and information provided by the parents of the child, (ii) current classroom-based, local, or State assessments, and classroom-based observation, (iii) observations by teachers and related services providers. On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine whether the child is a child with a disability or whether the child continues to have such a disability, the educational needs of the child, present levels of academic achievement and related developmental needs of the child, whether the child needs special education and related services or whether the child continues to need special education and related services, and whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum. The public agency must administer such assessments and other evaluation measures as may be needed to produce the data. If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of the determination and the reasons for the determination, and the right of the parents to request an assessment to determine

1 whether the child continues to be a child with a disability, and to determine the child's
2 educational needs.

3 48. 34 C.F.R. § 306 provides that upon completion of the administration of
4 assessments and other evaluation measures a group of qualified professionals and the
5 parent of the child determines whether the child is a child with a disability and the
6 educational needs of the child, and the public agency provides a copy of the evaluation
7 report and the documentation of determination of eligibility at no cost to the parent. In
8 interpreting evaluation data for the purpose of determining if a child is a child with a
9 disability each public agency must draw upon information from a variety of sources,
10 including aptitude and achievement tests, parent input, and teacher recommendations,
11 as well as information about the child's physical condition, social or cultural background,
12 and adaptive behavior, and Ensure that information obtained from all of these sources is
13 documented and carefully considered. If a determination is made that a child has a
14 disability and needs special education and related services, an IEP must be developed
15 for the child.

16 49. 34 C.F.R. § 300 does not exist.

17 50. 34 C.F.R. § 300.513 provides that a hearing officer's determination of
18 whether a child received FAPE must be based on substantive grounds. In matters alleging
19 a procedural violation, a hearing officer may find that a child did not receive a FAPE only
20 if the procedural inadequacies (i) impeded the child's right to a FAPE, (ii) significantly
21 impeded the parent's opportunity to participate in the decision-making process regarding
22 the provision of a FAPE to the parent's child, or (iii) caused a deprivation of educational
23 benefit.

24 51. Both Parent and [REDACTED] Special Education Director asked Respondent to
25 assess Student's ability to use an ASL interpreter, to no avail. Although Respondent
26 initially agreed, never conducted the assessment because it "did not know how."
27 Consequently, Student's IEP team lacked data necessary to determine his
28 communication capabilities/needs or whether changes to his special education or related
29 services were required.

30 52. This failure also significantly impeded Parent's participation in the IEP
process. By refusing to conduct the requested evaluation Respondent deprived Parent of

objective information necessary to evaluate, challenge, or consent to decisions regarding interpreter services for her child.

53. The violation also deprived Student of an educational benefit. Without evaluation data the IEP team had no evidentiary basis to determine whether Student could meaningfully access instruction through an ASL interpreter or what communication deficits required SDI. Had Student demonstrated functional interpreter skills, he could have satisfied Respondent's second Exit Criterion and returned to a less restrictive environment. Conversely, if the evaluation identified one (1) or more deficits the IEP team would have been required to develop appropriate goals and SDI to address them. By failing to evaluate, Respondent deprived Student of both possibilities.

54. This procedural violation also rendered the IEP substantively deficient.

55. Petitioners have sustained their burden of proof as to this allegation. Both procedural and substantive due process violations exist.

RULING

56. The credible and relevant evidence of record establishes procedural due process violations by the requisite evidentiary standard regarding Claims #3 and #5 only, which resulted in a denial of FAPE.

57. The credible and relevant evidence of record establishes substantive due process violations by the requisite evidentiary standard regarding Claims #3, #4, and #5 only, which also resulted in a denial of FAPE.

Based on the foregoing,

IT IS ORDERED that Claims #3, #4, and #5 are **granted**. Petitioners' corresponding request(s) for relief are also **granted** as follows:

RELIEF:

- **Claim #3** – Compensatory services comprised of direct, specialized ASL instruction delivered by a certified ASL linguistics specialist, using a comprehensive multi-instrument assessment process, and providing targeted instruction in advanced grammar, academic vocabulary, narrative language, fingerspelling automaticity, and interpreter-readiness skills.¹¹² For ASL and language, Respondent shall fund compensatory education in the targeted service goal areas described by Ms. Latini and Ms. Graham (or an ASL

¹¹² If possible, implemented collaboratively by Ms. Latini and Germaine Graham, Speech Language Pathologist, through one (1) hour quarterly consultations over the course of two (2) years.

specialist or certified provider specializing in ASL linguistics) to be contracted and funded by Respondent for two (2) years; approximately 240 minutes per month for Ms. Graham and once per quarter for Ms. Latini, cumulatively totaling approximately \$16,400.00.

- **Claim #4** – Respondent shall fund compensatory education by contracting for payment and services with a certified special education teacher or subject-matter tutor who is hearing impaired/ASL proficient, selected by Respondent, to provide the academic compensatory education in reading, writing and math for one (1) hour per week for two (2) years based on a 40-week school year, to begin no later than thirty (30) days after the date this ORDER is issued.
- **Claim #5** – Respondent shall fund compensatory education by contracting for payment and services with an evaluator of Parent's choice to conduct a comprehensive independent evaluation of Student's ability to use and benefit from an ASL interpreter, within one (1) year after the date this ORDER is issued.

IT IS FURTHER ORDERED that Claims #1 and #2, as well as all related requested remedies, are **denied**.

IT IS FURTHER ORDERED that Petitioners' request for attorney's fees and costs is **granted in part, and denied in part**. Petitioners may seek separate action in an appropriate court of competent jurisdiction under 20 U.S.C. § 1415(i)(3)(B) for the determination of such fees, costs, and related expenses that solely relate to the preparation and representation of Claims #3, #4, and #5.

IT IS FURTHER ORDERED that 26C-DP-036-ADE be **dismissed, with prejudice**.

Done this day, August 24, 2026.

Office of Administrative Hearings

/s/ Jenna Clark
Administrative Law Judge

NOTICE OF RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to 20 U.S.C. § 1415(i) and ARIZ. REV. STAT. § 15-766(E)(3), this DECISION AND ORDER is the final decision at the administrative level. Furthermore, any party aggrieved by the findings and decisions made herein has the right to bring a civil action, with respect to the complaint presented, in any State court of competent jurisdiction or in a district court of the United States. Pursuant to ARIZ. REV. CODE R7-2-405(H)(8), any party

1 may appeal the decision to a court of competent jurisdiction within thirty-five
2 (35) days of receipt of the decision.

3 Transmitted by either mail, e-mail, or facsimile to:
4

5 Jeffrey Studer, Director of Dispute Resolution

6 **Arizona Department of Education**

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