

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 [REDACTED] a Student, by and through Parent

No. 25C-DP-073-ADE

4
5 Petitioner,

**ADMINISTRATIVE LAW JUDGE
DECISION**

6 v.

7 Red Rock Elementary School District

8 Respondent.

9
10 **HEARING:** October 28, 2025 and October 31, 2025, with the record held open
11 until November 26, 2025 to allow the court reporter's transcript to be included in the
12 record.

13 **APPEARANCES:** Parent [REDACTED] (Parent) on behalf of [REDACTED]. (Student). Sesaly O.
14 Stamps, Esq. and Clayton R. Kramer, Esq. appeared on behalf of Red Rock Elementary
15 School District (District).

16 **WITNESSES:**

- 17
- 18 • Parent [REDACTED] (Parent)
 - 19 • Deonna Tourtellot, Student's [REDACTED] Grade General Education Teacher
 - 20 • Heather Wolf, Respondent's Physical Therapy Provider
 - 21 • Jennifer Bellah, Respondent's Exceptional Education Student Services Director

22 **HEARING RECORD:** Certified Court Reporter Richael M. Silvia recorded the
23 proceedings as the official record of the hearing.

24 **ADMINISTRATIVE LAW JUDGE:** Velva Moses-Thompson

25 **EXHIBITS ADMITTED INTO EVIDENCE:** Petitioner's Exhibits A through R.
26 Respondent's Exhibits A, B, C, D, R, F, Y, R, and BB.

27 **FINDINGS OF FACT**

28 1. On May 27, 2025, Parent filed a due process complaint that provided as
29 follows:

30 My name is [REDACTED], and I'm the mother of [Student], a student with complex
medical and developmental needs. I'm submitting this due process complaint

1 because I believe my son has been denied a Free Appropriate Public Education
2 (FAPE) under the Individuals with Disabilities Education Act (IDEA) by the Red
3 Rock Elementary School District. Since we moved to Arizona in early 2024, I've
4 made every effort to collaborate with the school team and communicate
5 Student's needs clearly. Unfortunately, many of those concerns have been
6 dismissed or misunderstood, and key services and supports have not been
7 provided. In May 2025, after raising serious concerns about Student's placement
8 and requesting a meeting to discuss more appropriate options, the school
9 responded by asking me to sign off on a new stander recommendation rather
10 than addressing my concerns. I made it clear that I wanted to discuss placement
11 and I chose to send a formal letter instead of an email in the hope that my
12 request would be taken seriously. In that letter, I withdrew my consent for
13 Student's placement at Red Rock. Instead of working toward a resolution or
14 supporting a smooth transition, the school informed me that they had already
15 implemented his IEP and made their decision about placement. The Special
16 Education Director, Jennifer Bellah, sent me disenrollment paperwork, then
17 proceeded to cancel our scheduled meeting. This made it painfully clear that they
18 had no intention of coming to the table to resolve the issues or ensure continuity
19 of services and supports as required under IDEA. The entire process has caused
20 significant emotional stress for both me and my children. Student who loved
21 school, now dreads it. We are new to Arizona and moved here while recovering
22 from domestic violence, in search of safety and stability. I had hoped the school
23 would help guide us during this challenging transition but that's not what
24 happened. Instead, I've been made to feel like an outsider, not a member of the
25 IEP team, and certainly not a partner in my own son's education. This complaint
26 outlines the ongoing issues and what I'm asking for to support my child's safety,
27 development, and educational progress.

19 **1.Procedural Violations and Misrepresentation**

20 In May 2024, the school developed and finalized an IEP for Student that included
21 statements suggesting I was satisfied with his current placement at Red Rock.
22 This was not accurate. During the IEP meeting, I specifically asked for an
23 extended outside evaluation and requested information about specialized
24 education centers for children with complex medical needs. None of that was
25 reflected in the finalized IEP, and I was not provided with Prior Written Notice
26 about any decisions made in response to my requests.

27 The school implemented this IEP without obtaining my informed consent or even
28 notifying me. I later found out from documentation and conversations that
29 decisions had been made and implemented without my knowledge. This felt like
30 a violation of my rights as Student's parent and as an equal member of his IEP
team.

2.Denial of Services and Supports

1 Over the past year, Student has experienced a number of setbacks that I believe
2 are a direct result of reduced or inconsistent services. For example, in-person
3 physical therapy, which is critical to his development, was not provided, even
4 after I raised concerns given the nature of his disability and flux of muscle tone,
5 especially after his injections. I raised concerns about a left arm injury and
6 Student guarding his arm. Outside providers also noticed this, but no one from
7 the school team ever reported it, acknowledged it or explained what may have
8 happened. I brought it to their attention, and it took a month for the occupational
9 therapist to respond to my inquiry. Student's physical therapy is provided by an
10 untrained paraprofessional who is observed virtually by a physical therapist who
11 doesn't even get to touch or feel the tone of Student's muscles each day.

12 Several key components of Students' necessary accommodations to access his
13 curriculum were removed from his 2024 IEP including his 1:1 aide, assistive
14 technology device, even his extended school year and transportation services. A
15 stander was clearly listed in Student's 2023 IEP and was never provided. No one
16 has taken accountability for this, and now after serious documented regression,
17 they put in a new recommendation for the stander that they now want me to
18 prioritize signing off on. Speech services are only provided for three weeks each
19 month, and PT was reduced despite everyone noting his regression. These gaps
20 in services have caused harm, and I feel like my son is falling further behind instead
21 of moving forward.

22 Student uses an assistive technology (AT) device because he is not able to write
23 by hand. Yet the team is forcing him to write and color which only frustrates and
24 exasperates Student, it does not encourage or aid him in any way. The AT
25 device is supposed to help him complete his schoolwork independently and
26 meaningfully access the curriculum and his education. However, the AT device is
27 not being used the way it should be. His notes and assignments are not
28 uploaded onto it, and he is not allowed to bring it home, unlike other students
29 who take home notebooks and folders. Instead, Student brings home coloring
30 pages and worksheets that appear to be completed by the paraprofessional. He
has told me directly that "Miss White does the work, and I help her," which raises
serious concerns about whether he is being taught or simply supervised. This is
not what appropriate support or inclusive education looks like.

There is a clear and concerning discrepancy in Student's academic skills. In
August 2024, the team documented that he was able to add and subtract within
20. However, by May 2025, they stated that he could not even count to 20. This
inconsistency in reporting his abilities underscores why I have repeatedly
requested an independent or extended outside evaluation. I need a
comprehensive, unbiased assessment of what Student truly knows and can do,
so we can create an educational plan that reflects his real potential, not just what
is or isn't observed in the classroom on a given day.

3.Safety and Support Concerns

1 There have been multiple incidents that have made me worry about Student's
2 safety at school. One day, he fell while the paraprofessional stood next to him
3 without supporting him. On another occasion, a note I sent to update the team
4 about a temporary issue was taken out of context and used to remove his walker
5 entirely, something that is not developmentally appropriate. I need to feel
6 confident that the staff working with my child understand how to support him
7 physically and developmentally, and I just don't feel that way right now.

6 **4.What I'm Requesting**

7 I'm asking for the following steps to be taken so that Student can receive the
8 education and support he deserves:

9 •Placement in a school or program that specializes in working with children
10 who have complex medical and developmental needs, like the Arizona
11 State School for the Deaf and Blind or the Southwest Education Center in
12 Casa Grande, with transportation.

13 •All accommodations that were removed from his 2023 IEP without my
14 knowledge or consent be put back onto his IEP, including his 1:1 aide, assistive
15 technology device, ESY, stander and adaptive equipment.

16 •A publicly funded Independent Educational Evaluation (IEE) by professionals
17 who are experienced in working with children with complex medical conditions.

18 •Compensatory services to make up for virtual PT sessions performed by an
19 untrained paraprofessional since January 2024.

20 2. Student is [redacted] years old and has a medical diagnosis of [redacted]

21 [redacted] ¹ Student's areas of eligibility are as follows:²

22 Special Education Primary Category: [redacted]

23 Special Education Eligibility Category #2: [redacted]

24 Special Education Eligibility Category #3: [redacted]

25 Special Education Eligibility Category #4: [redacted]

26 3. Student has been enrolled in Respondent since January 2024.³

27 ¹ See Exhibit B (2025 IEP).

28 ² See Exhibit B (2025 IEP).

29 ³ The Administrative Law Judge has read and considered each page of each admitted Exhibit, even if not
30 mentioned in this Decision. The Administrative Law Judge has also considered the testimony of every
witness, even if the witness is not specifically mentioned in this Decision. The review of the hearing
record in relation to the only appropriate due process complaint notice, the documentation, the testimony.

1 4. Student enrolled in the District as a [REDACTED] for the remainder of the
2 2023-2024 school year.

3 5. Student was enrolled as a [REDACTED] for all of the 2024-2025 school year.

4 6. Parent provided Respondent with an Individualized Education Plan (IEP)
5 that had been in place previously in a school district in the State of [REDACTED] where
6 Student was enrolled.

7 7. Parent has only provided Respondent with an evaluation of Student that
8 occurred in 2023.⁴

9 8. Parent has not provided Respondent with evaluative disability criteria after
10 2023.

11 9. The District requested that Parent consent to an evaluation of Student in all
12 areas of suspected disability, but Parent has refused to provide consent to an evaluation
13 performed by the District.⁵

14 10. Respondent considered and rejected a request from Parent for an
15 independent evaluation because the District has not conducted its own evaluation and
16 parent has refused to consent to an evaluation.⁶

17 11. At hearing, Jennifer Bellah, Respondent's Exceptional Education Student
18 Services Director, explained that Respondent considered Parent's request to place
19 Student in a school or program that specializes in working with children who have
20 complex medical and developmental mental needs, like the Arizona State School for the
21 Deaf and Blind or the Southwest Education Center in Casa Grande with transportation.
22 However, the IEP team determined that Respondent was the least restrictive
23 environment for Student.⁷

24 12. The District implemented the existing IEP created in [REDACTED] when
25 Student enrolled with the District.

28 _____
29 ⁴ See Tr 1 at 179-180.

30 ⁵ See Tr. 1 at 49.

⁶ See Tr. 1 at pg. 62.

⁷ See Tr.1 at 194-195

1 13. The IEP that was formed in [REDACTED] in 2023 provided that Student
2 would be provided with a “1:1 aide throughout the day”, “Use of Assisted Tech device to
3 access grade level curriculum and tasks.”, “AAC device”,⁸

4 14. On April 22, 2024, a new IEP (hereinafter “2024 IEP”) was implemented
5 after a duly convened IEP meeting. Parent was present for and participated in the
6 meeting.⁹

7 15. Parent did not request that a stander be included in the IEP at the April 22,
8 2024 IEP meeting.

9 16. The 2024 IEP shows that Student will receive support services in the
10 General Education (GE) classroom 2040 minutes per week from a paraprofessional.¹⁰
11 The 2024 IEP further clarified, “The paraprofessional will provide carry over support in the
12 general education classroom for [REDACTED], [REDACTED] and [REDACTED]. This
13 will provide Student with additional opportunities to increase his abilities and stamina and
14 carry over into all environments.”¹¹

15 17. On December 3, 2024, at 3:38 p.m., Student’s paraprofessional, Adriana
16 White, sent an e-mail message to Bellah notifying her that Student fell in his private¹²
17 bathroom at 2:10 p.m. that day.¹³ White also notified Parent of the incident when Parent
18 picked Student up from school. The e-mail provided, as follows:

19 Today at 2:10 Student was drying his hands in the bathroom and he lost his
20 balance and fell back on his bottom. I am usually standing right next to him and
21 he has a table supporting him behind him. Today I turned to put the toilet seat
22 back in its place and he lost his balance. He was initially shocked and said his
23 bottom hurt. I looked and saw a little bit of red. He quickly revived and we headed
24 to the bus. Upon arriving to drop him off at home I told his mom about it and she
25 seemed upset and asked how he fell and if he wasn’t supported. She seemed
26 upset and walked away.

27 18. At hearing, Bellah explained that the fall alone is not a basis for

28 ⁸ See District’s Exhibit BB, pg. 10 of 29.

29 ⁹ See Tr. 1 at 167.

30 ¹⁰ See Exhibit A (2024 IEP, pg. 18 of 21).

¹¹ See id.

¹² See Bellah’s testimony on the Tr. 1, pgs. 175-176. Bellah clarified that a private bathroom means that other students would not be present.

¹³ See Exhibit N (Email documentation of Student fall).

1 replacing the paraprofessional. Bellah explained that the school honored Parent's
2 request to allow Student to move outside of his wheelchair.¹⁴

3 19. The 2024 IEP shows that Student will have access to his assisted
4 technology device (AT device), a NOVA chat with WordPower during his entire school
5 day.¹⁵ The application was also loaded on his school-provided iPad as backup.¹⁶

6 20. The 2024 and the 2025 IEPs show that Student uses SnapType on his
7 iPad to support written expression.¹⁷ Student was provided with adaptive equipment in
8 his 2024 and 2025 IEPs.¹⁸

9 21. Deonna Tourtellot was Student's general education teacher during the
10 2024-2025 school year.¹⁹ Ms. Tourtellot explained, "SnapType is a program that is
11 installed on Student's personal tablet that he uses. You can take a photo of any printed
12 classwork that we are doing in the class, and then he is able to type in, into boxes,
13 answers to answer those questions.²⁰ And then we can have that work turn into a PDF
14 document and sent to my e-mail."

15 22. Ms. Tourtellot explained that Student used SnapType during the 2024-
16 2025 school year.²¹

17 23. The 2024 IEP shows that Student was determined eligible for extended
18 school year (ESY). The explanation provided for ESY was as follows:²²

19 Student is determined eligible for extended school year. Due to the nature and
20 severity of Student's disability, the team determines Student requires ESY to
21 support potential regression over long breaks from school. Student has not been
22 at Red Rock long enough to have data indicating if regression/recoupment is a
23 concern, however, the IEP team would like to respect the determination made by
24 his previous school that ESY is necessary. His mother has expressed concerns
25 regarding range of motion, strength, and stability. The team will continue to
26 evaluate ESY eligibility on an annual basis.

25 ¹⁴ See Tr. 1, pgs. 176-177.

26 ¹⁵ See Exhibit A (2024 IEP, pg. 18 of 21).

27 ¹⁶ See *id.* Bellah explained at hearing that the clarification means, "the paraprofessional will work with the
28 specialists in the skills and strategies they are using. They will also implement those across all
29 educational settings." See Tr. 1 pg. 174.

28 ¹⁷ See Exhibits A and B.

29 ¹⁸ See Exhibits A and B.

30 ¹⁹ See Tr.1 at 107-108.

²⁰ See Tr.1 at *id.* at 108.

²¹ See Ms. Tourtellot's testimony generally: Tr.1 at 107-117.

²² See Exhibit A (2024 IEP, pg. 1 of 21).

1 24. Through a prior written notice (PWN) issued to Parent on August 9, 2024,
2 Respondent notified Parent that transportation was be added to Students IEP.²³ The PWN
3 further explained that Student was transported to and from school daily, even though
4 transportation was not in the IEP.²⁴ Parent did not dispute this fact related to
5 transportation at the hearing.

6 25. Bellah explained at hearing that the failure to include transportation in the
7 IEP was an oversight.²⁵

8 26. Student's physical therapy was provided virtually.²⁶ Bellah explained at
9 hearing that if Respondent conducted an evaluation and determined that virtual physical
10 therapy was not appropriate, Respondent would consider providing in-person physical
11 therapy to Student.

12 27. Student's 2023 IEP included the following, "Adapted equipment as
13 needed, which may or may not include, but not limited to, mobility seating system,
14 ambulation aid, AFOs, wheelchair, gait trainer, stander, floor sitter."²⁷

15 28. Bellah explained that during the school years 2023 to 2024 and 2024 to
16 2025, Student was provided with one-to-one support from a trained paraprofessional.²⁸
17 The paraprofessional was not assigned to any other students.²⁹ Bellah explained that
18 paraprofessionals within Respondent receive formal CPI training which is de-escalation,
19 disengagement and restraints training. Respondent provides in-house training in
20 characteristics of autism, best practice for working with students with disabilities.
21 Respondent's speech pathologist provides intensive training in the use of augmentative
22 communication that is ongoing, and all of our service providers meet with the paras that
23 have students in their area and provide them training as well. Respondent provides
24 training and an orientation regarding how to use assistive devices and virtual physical
25 therapy.³⁰

26 ²³ See Exhibit E.

27 ²⁴ See id.

28 ²⁵ See Tr. 1 at 177-178.

29 ²⁶ See Tr. 1 at 178.

30 ²⁷ See Exhibit BB (2023 IEP, pg. 9 of 29).

²⁸ See Tr. 1 pgs. 171 -172

²⁹ See Tr. at 172.

³⁰ See id.

1 29. The accommodations section of the 2025 IEP provides that Student will
2 receive “1:1 support for all transfers and activities of daily living (ADLs).”³¹

3 30. On April 11, 2025, a new IEP was implemented after a duly convened IEP
4 meeting. Parent was present for the meeting and participated in the meeting. Parent
5 requested that a stander be included at the IEP meeting on April 11, 2025.³² Bellah
6 requested that Parent give consent to allow Respondent to perform an evaluation of
7 Student to fit him for a stander that would be appropriate for Student.³³ Parent did not
8 provide such consent.³⁴

9 31. Bellah stated at hearing that the 2024 IEP and the 2025 IEP offered Student
10 a FAPE.

11 32. Student’s monthly speech therapy minutes were not reduced in the 2024
12 and 2025 IEPs.³⁵

13 33. Student’s monthly physical therapy minutes were not reduced in the 2024
14 IEP.³⁶

15 34. At the time that the due process complaint was field, Student received
16 physical therapy virtually and not in person.

17 35. Heather Wolf holds a doctorate in physical therapy.³⁷ Ms. Wolf is
18 Respondent’s contracted physical therapist and has been working for Respondent since
19 July of 2025.³⁸ Ms. Wolf currently provides physical therapy services to Student once a
20 week.³⁹ Ms. Wolfe explained that virtually physical therapy functions the same in the
21 educational setting as in person physical therapy. The therapy provided to a Student in
22 the educational setting focuses on enabling the student to participate in their academic
23 environment. Physical therapy provided in the clinical setting is different because the
24 focus is on specific impairments, including but not limited to, range of motion, mobility,

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26 ³¹ See Exhibit B (2025 IEP, pg. 15 of 22).

27 ³² See Tr. 1 at 182.

28 ³³

29 ³⁴ See id.

30 ³⁵ See Exhibits A (2024 IEP, B (2025 IEP) and BB ([REDACTED] IEP).

³⁶ See Exhibit A (2025 IEP) and BB ([REDACTED] IEP).

³⁷ See Tr. 1 at 124-125.

³⁸ See Tr. 1 at 125.

³⁹ See Tr. 1 at 125-127.

1 transfers and transitions. Ms. Wolf sated that virtual therapy is accepted by most
2 commercial insures and by the Arizona State Board of Physical Therapy.⁴⁰

3 36. Bellah explained at hearing that a 1:1 aide and a paraprofessional are not
4 functionally different within Respondent.

5 37. At hearing, Parent initially testified that the 2023 IEP offered Student a
6 FAPE.⁴¹ Later in the hearing, Parent stated that the 2023 IEO did not provide student a
7 FAPE.⁴²

8 38. Parent argued that a paraprofessional and a 1:1 aide are not the same.
9 Parent contended that Student’s paraprofessional was not trained. Parent contended
10 that virtual therapy was not appropriate for Student. Parent argued that she was not
11 allowed to meaningfully participate in the IEP process and that Student should not have
12 been placed in Respondent. Parent contended that Student should be placed at a
13 school that specializes in working with children who have complex medical and
14 developmental mental needs, like the Arizona State School for the Deaf and Blind or the
15 Southwest Education Center in Casa Grande.

16 **CONCLUSIONS OF LAW**

17 **APPLICABLE LAW**

18 ***FAPE***

19 1. Through the IDEA, Congress has sought to ensure that all children with
20 disabilities are offered a FAPE (free appropriate public education) that meets their
21 individual needs.⁴³ These needs include academic, social, health, emotional,
22 communicative, physical, and vocational needs.⁴⁴ To provide a FAPE, a school district
23 must identify and evaluate all children within their geographical boundaries who may be
24 in need of special education and services. The IDEA sets forth requirements for the
25 identification, assessment, and placement of students who need special education, and
26 seeks to ensure that they receive a FAPE. A FAPE consists of “personalized instruction

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28 ⁴⁰ See id.

29 ⁴¹ See Tr.1 at 182.

30 ⁴² See Tr.1 at 53.

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

⁴⁴ *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).

1 with sufficient support services to permit the child to benefit educationally from that
2 instruction.”⁴⁵ The FAPE standard is satisfied if the child’s IEP sets forth his or her
3 individualized educational program that is “reasonably calculated to enable the child to
4 receive educational benefit.”⁴⁶ The IDEA mandates that school districts provide a “basic
5 floor of opportunity.”⁴⁷ The IDEA does not require that each child’s potential be
6 maximized.⁴⁸ A child receives a FAPE if a program of specialized instruction “(1)
7 addresses the child’s “unique” needs, (2) provides adequate support services so the
8 child can take advantage of the educational opportunities and (3) is in accord with the
9 child’s individualized educational program.”⁴⁹

10 ***The IEP***

11 2. Once a student is determined eligible for special education services, a team
12 composed of the student’s parents, teachers, and others familiar with the student
13 formulate an IEP (individualized education program) that generally sets forth the student’s
14 current levels of educational and functional performance and sets annual goals that the
15 IEP team believes will enable the student to make progress in the general education
16 curriculum.⁵⁰

17 3. The IEP tells how the student will be educated, especially with regard to the
18 student’s unique needs that result from the student’s disability, and what services will be
19 provided to aid the student. The student’s parents have a right to participate in the
20 formulation of an IEP.⁵¹ The IEP team must consider the strengths of the student,
21 concerns of the parents, evaluation results, and the academic, developmental, and
22 functional needs of the student.⁵²

23 ***Substantive versus Procedural***

24 ⁴⁵ *Hendrick Hudson Central Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 204 (1982).

25 ⁴⁶ *Id.*, 485 U.S. at 207. In 2017, in *Andrew F. v. Douglas County Sch. Dist. RE-1*, 580 U.S. ____, 137 S. Ct.
26 988, 2017 West Law 1234151 (March 22, 2017), the Supreme Court reiterated the *Rowley* standard, adding
27 that a school “must offer an IEP that is reasonably calculated to enable a child to make progress appropriate
28 in light of the child’s circumstances,” but the Court declined to elaborate on what “appropriate progress”
29 would look like case to case (*i.e.*, in light of a child’s circumstances).

⁴⁷ *Rowley*, 458 U.S. at 200.

⁴⁸ See *id.* at 198.

⁴⁹ *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)).

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

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

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

1 4. A determination of whether or not a student received a FAPE must be based
2 on substantive grounds.⁵³ For a substantive analysis of an IEP, the review of the IEP is
3 limited to the contents of the document.⁵⁴ Therefore, any question regarding whether an
4 IEP is reasonably calculated to provide educational benefit to a student must be decided
5 on the basis of the content of the IEP itself.

6 5. Procedural violations in and of themselves do not necessarily deny a student
7 a FAPE. If a procedural violation is alleged and found, it must be determined whether the
8 procedural violation either (1) impeded the student’s right to a FAPE; (2) significantly
9 impeded the parents’ opportunity to participate in the decision-making process; or (3)
10 caused a deprivation of educational benefit.⁵⁵ If one of those three impediments has
11 occurred, the student has been denied a FAPE due to the procedural violation.

12 **LRE**

13 6. The IDEA does not provide an absolute right to a particular placement
14 location as a child’s LRE. Each proposed or alternative placement is simply required to
15 have been “considered” by the IEP Team with regard to potential harmful effect on the
16 student or potential harmful impact on the quality of the services that the child needs.⁵⁶
17 A public agency must ensure that, “To the maximum extent appropriate, children with
18 disabilities, including children in public or private institutions or other care facilities, are
19 educated with children who are nondisabled.” See 34 Code of Federal Regulations §
20 300.114.

21 **IEE**

22 7. A school district is not legally obligated to provide an independent
23 education evaluation until it has the opportunity to conduct its own evaluation. See [34](#)
[CFR § 300.502](#)

24 ***Burden of Proof and Basis of Decision***

25 8. A parent who requests a due process hearing alleging non-compliance with
26

27 ⁵³ 20 U.S.C. § 1415(f)(3)(E)(i); 34 C.F.R. §§ 300.513(a)(1).

28 ⁵⁴ *Knable v. Bexley City Sch. Dist.*, 238 F.3d 755, 768 (6th Cir. 2001) (“only those services identified or
29 described in the . . . IEP should have been considered in evaluating the appropriateness of the program
30 offered) (relying on *Union Sch. Dist. v. Smith*, 15 F.3d 1519, 1526 (9th Cir. 1994) (IDEA requirement of a
formal, written offer should be enforced rigorously)).

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

⁵⁶ See 34 C.F.R. § 300.116(d).

1 the IDEA must bear the burden of proving that claim.⁵⁷ The standard of proof is
2 “preponderance of the evidence,” meaning evidence showing that a particular fact is “more
3 probable than not.”⁵⁸ Therefore, in this case Petitioners bear the burden of proving by a
4 preponderance of evidence that Respondent substantively violated the IDEA through the
5 alleged actions or inactions. If a procedural violation is alleged and demonstrated,
6 Petitioners must then show that the procedural violation either (1) impeded Student’s right
7 to a FAPE, (2) significantly impeded Parents’ opportunity to participate in the decision-
8 making process, or (3) caused a deprivation of educational benefit to Student.⁵⁹

9 **DECISION**

10 9. There was no evidence presented at hearing that Student’s least
11 restrictive environment was a private placement. The preponderance of the evidence
12 shows that Respondent provided Parent with a meaningful opportunity to participate in
13 the development of both IEPs at issue, and she did participate. There is no legal
14 authority that supports the position that a parent must sign off on an IEP or that a district
15 acquiesce to a parent's demand if the team determined those demands are not
16 appropriate.

17 10. The preponderance of the evidence establishes that the IEPs at issue
18 were reasonably calculated to enable Student to make appropriate progress. A one-to-
19 one aide and assisted technology device, extended school year and transportation
20 services were all provided to Student throughout the years in question and were
21 included in the 2024 and 2025 IEP.

22 11. While there was a technical error regarding a reference to transportation
23 Services being included in the 2024 IEP. This inadvertent error was corrected as soon
24 as the parent brought it to the district's attention. A PWN was provided to Parent noting
25 an addendum which added transportation services formally back in.

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27
28 ⁵⁷ *Schaffer v. Weast*, 546 U.S. 49, 126 S. Ct. 528 (2005).

29 ⁵⁸ *Concrete Pipe & Prods. v. Constr. Laborers Pension Trust*, 508 U.S. 602, 622, 113 S. Ct. 2264, 2279
30 (1993) quoting *In re Winship*, 397 U.S. 358, 371-72 (1970); see also *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).

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

1 12. Respondent provide testimonial evidence that Student has been provided
2 transportation throughout his enrollment with Respondent. Parent did not provide any
3 evidence that Student's minutes in speech therapy or physical therapy were reduced in
4 his IEPs or that the number of services in speech therapy or physical therapy were
5 insufficient to offer Student a FAPE.

6 13. Parent did not provide evidence that would establish virtual physical
7 therapy was not appropriate for Student. Respondent presented testimonial evidence
8 from a licensed physical therapist, who testified that virtual physical therapy is
9 appropriate in the educational environment. She also testified that virtual physical
10 therapy is appropriate for Student and that the paraprofessionals assigned to support
11 his physical therapy are appropriately trained.

12 14. Parent failed to establish the paraprofessionals assigned to Student were
13 inadequately trained. Respondent provided evidence to establish that the
14 paraprofessionals assigned to Student were trained to provide and actually did provide
15 the services he required under his IEP.

16 15. Parent has not provided evidence to support a finding that Respondent
17 failed to implement the assistive technology devices required under Student's IEP.
18 Respondent presented testimony from Deonna Tourtellot, Student's general education
19 teacher, who testified that Student used SnapType, the AT device in question, during
20 the school day. Respondent presented documentary evidence showing that Student did,
21 in fact, use SnapType.

22 16. With regard to a stander and adaptive equipment, the evidence
23 established that Student was provided with adaptive equipment in his 2024 and 2025
24 IEPs. The 2023 IEP from [REDACTED] listed adaptive equipment as needed which,
25 quote, may or may not, end quote, include certain types of equipment. In 2024 the IEP
26 included a walker. In 2025 the IEP included a gait trainer and a stander. This was -- in
27 2025 this was the first time that Parent requested a stander.

28 17. Ms. Wolf testified that a stander must be fitted specifically to Student.
29 Parent cannot simultaneously prevent the District from providing Student with a stander
30 and claim that the District is failing to provide one.

1 16. Parent has failed to meet her burden to establish that Respondent denied
2 Student a FAPE as alleged in her due process complaint.

3 **CONCLUSION**

4 Because the evidentiary record does not demonstrate any violation of the
5 IDEA by Respondent and, therefore, no remedies would be fashioned, the Administrative
6 Law Judge does not address Petitioners' requested remedies. The Administrative Law
7 Judge concludes that Petitioners' Complaint shall be dismissed.

8 **RULING**

9 Based on the findings and conclusions above,

10 **IT IS HEREBY ORDERED** that Petitioners' Complaint is dismissed in its entirety.

11 *In the event of certification of the Administrative Law Judge Decision by the*
12 *Director of the Office of Administrative Hearings, the effective date of the Order will be*
forty (40) days from the date of that certification.

13 Done this day, November 26, 2025.

14
15 /s/ Velva Moses-Thompson
16 Administrative Law Judge

17 Transmitted by either mail, e-mail, or facsimile to:

18
19 Peter Dwyer, Superintendent
20 Red Rock Elementary School District

21 Jeff Studer
22 Arizona Department of Education
23 Jeffrey.Studer@azed.gov

24
25 By: OAH Staff
26
27
28
29
30

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