

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 [REDACTED] Student, by and through Parents [REDACTED]
4 and [REDACTED]

No. 26C-DP-003-ADE

5 **Petitioner,**
6 v.
7 Flagstaff Unified School District,
8 **Respondent.**

**ADMINISTRATIVE LAW JUDGE
DECISION**

9 **HEARING:** November 18, 2025 and November 19, 2025 at 9:00AM

10 **APPEARANCES:** Attorney Justin Fernstrom, Esq. of LEX TECNICA, appeared on
11 behalf of [REDACTED] (“Student”), [REDACTED] and [REDACTED] (jointly as “Parents,”
12 collectively as “Petitioners”). Attorney Brittany Reiner, Esq. of UDALL SHUMWAY, PLC,
13 appeared on behalf of Flagstaff Unified School District (“Respondent” or “FUSD”).

14 **WITNESSES:**¹

[REDACTED] – Father

[REDACTED] - Stepmother

Carrie Lamberti – **Special Education Therapist**

James Connell – [REDACTED] **School Psychologist**

Kristin Brown – **Special Education Program Specialist**

Susan Smith – **Special Education Executive Director**

19 **ADMINISTRATIVE LAW JUDGE:** Nicole Robinson

20 **HEARING RECORD:** Certified Court Reporter Jennifer Honn (CR No. 50885) of
21 COASH COURT REPORTING & VIDEO, LLC, transcribed the proceedings as the official
22 record of the hearing.²

23 **EXHIBITS ADMITTED INTO EVIDENCE:** Special Education Due Process
24 Complaint (“DUE PROCESS COMPLAINT”) dated July 9, 2025; The NOTICE OF HEARING
25 dated July 15, 2025; Respondent Due Process Complaint Response dated July 24,
26 2025; Petitioner’s Exhibits 1 through 4, 6 (pages 0260 to 0336), 7, 8H, and 9;
27 Respondent’s Exhibits A through R; August 8, 2025, October 28, 2025, ORDERS
28 GRANTING CONTINUANCE; and Petitioner and Respondent’s Closing Briefs were admitted
29 into the evidentiary record.

30 ¹ Throughout this decision, proper names of witnesses are not used to protect confidentiality of Student and to promote ease of redaction. Pseudonyms (appearing above in bold type) will be used instead.

² The parties stipulated that the court reporter’s transcript would be the official record of the proceedings. The hearing record was held open and the transcripts were received on December 4, 2025, and the record was closed on December 15, 2025, for the receipt of closing statements.

1
2 Petitioners bring this due process action on behalf of Student, alleging that
3 Respondent violated the Individuals with Disabilities Education Act (“IDEA”), constituting
4 both procedural and substantive errors.

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

11 **PROCEDURAL HISTORY**

12 On or about July 9, 2025, Petitioners filed their DUE PROCESS COMPLAINT with the
13 Arizona Department of Education (“Department”) that alleged three (3) violations of the
14 IDEA against Respondent. On July 15, 2025, the Department issued a NOTICE OF
15 HEARING setting the matter for hearing before the Office of Administrative Hearings
16 (“OAH”), an independent state agency in Phoenix, Arizona.⁴

17 **ISSUES AT HEARING**

18 Based on a review of the DUE PROCESS COMPLAINT,⁵ the Administrative Law
19 Judge (“ALJ”) determined the following issues were raised for determination at the due
20 process hearing:

- 21 **(1) Failure of the Local Educational Agency (“LEA”) to comply with**
22 **procedural requirements.** Specifically, Petitioners alleged that the LEA
23 failed to timely complete Student’s annual and triennial reevaluation and
24 failed to follow procedural safeguards. Petitioners asserted that these failures
25 resulted in the loss of educational opportunity and denied Student the

26 ³ By Public Law 108-446, known as the “Individuals with Disabilities Education Improvement Act of 2004,”
27 IDEA 2004 became effective on July 1, 2005.

28 ⁴ The hearing was initially scheduled to convene on August 25, 2025. At the request of the parties, the
29 matter was set for a status update on September 11, 2025. On September 12, 2025, the matter was set
30 for prehearing conference on October 2, 2025. On October 28, 2025, the matter was continued and set
for hearing on November 18 and 19, 2025, whereby it was heard. The record was held open for
transcripts and closing arguments and closed on December 15, 2025.

⁵ See DUE PROCESS COMPLAINT.

1 services and protections guaranteed by federal and state law, amounting to a
2 denial of a Free Appropriate Public Education (“FAPE”).

3 a. **Failure to conduct annual and triennial evaluations.** Petitioners
4 argued that Student’s annual Individualized Education Program (“IEP”)
5 was due on or about December 14, 2024, and the three-year
6 reevaluation was due by December 2, 2024, pursuant to 34 C.F.R. §§
7 300.324(b)(1) and 300.303(b)(2).

8 b. **Failure to follow procedural safeguards.** Petitioners asserted that
9 Student was subjected to a series of disciplinary removals that
10 cumulatively exceeded ten school days and these removals constituted
11 a ‘change of placement’ and triggered the requirement for a
12 manifestation determination review (“MDR”) under 34 C.F.R §§
13 300.536(a)(2)(i) and 300.530(e). Petitioners alleged that a procedural
14 violation occurred when FUSD failed to develop or implement any IEP
15 during Student’s hospitalization. Petitioners argued that this deprived
16 Student of educational benefit, impeded Parents an opportunity to
17 participate in educational planning, and removed Student from her
18 placement without any of the statutory protections to which she was
19 entitled pursuant to 34 C.F.R. §300.530(d).

20 (2) **LEA materially failed to implement the IEP.** Petitioners argued that, while
21 Student was hospitalized at Aurora Behavioral Health (“Aurora”) located in
22 Phoenix, Arizona, from November 2024 through February 2025, FUSD
23 remained Student’s LEA and was legally responsible for the provision of a
24 FAPE, which it failed to do when it failed to implement Student’s IEP during
25 this time. Petitioners argued that FUSD unilaterally disenrolled Student
26 following her placement at Aurora and failed to convene an IEP team
27 meeting, without any parental participation or consent and no Prior Written
28 Notice (“PWN”). Petitioners further argued that when Student attempted to
29 return to FUSD after her hospitalization, FUSD barred her from attending
30 school in person and limited her to only 140 minutes per day of total

1 academic services, far below what was required in Student’s IEP, which was
2 a denial of FAPE and violated the LEA’s duties under the IDEA.

3 (3) **LEA prevented meaningful parent participation.** Petitioners argued that
4 FUSD denied them meaningful participation in the development and
5 implementation of Student’s educational program which was in violation of the
6 IDEA.

7 a. **After Student’s hospitalization, FUSD unilaterally changed her**
8 **placement by removing her from in-person instruction and**
9 **refusing to allow her to attend school physically.** Petitioners
10 argued that this unilateral action significantly impeded Parents’ ability
11 to participate in decisions regarding the provision of a FAPE and
12 directly contravened IDEA’s procedural safeguards.

13 b. **In April 2025, when FUSD presented a proposed IEP, it was**
14 **offered to Parents on a “take it or leave it” basis with FUSD**
15 **indicating that in-person attendance would not be permitted.**
16 Petitioners argue that such a presentation deprived them of their role
17 as equal participants in the IEP process.

18 c. **FUSD unilaterally revised Student’s Behavior Intervention Plan**
19 **(“BIP”) outside of the IEP process and without notice or**
20 **participation by Parents.** Petitioners argued that this exclusion
21 prevented them from understanding or contributing to key behavioral
22 strategies and supports for Student, which constituted a violation of the
23 IDEA’s procedural protections and significantly impeded Parents’
24 opportunity to participate in the decision-making process and resulted
25 in a denial of FAPE.

26 Requested Remedies:

- 27 • FUSD shall complete Student’s three-year reevaluation and finalize her IEP.
- 28 • FUSD should convene an IEP meeting within 10 days of the completed three-
29 year reevaluation to amend Student’s IEP, as necessary.
- 30 • FUSD shall provide and/or fund compensatory education in all areas of need
including but not limited to Applied Behavior Analysis (“ABA”) behavioral therapy

1 by a Board-Certified Behavior Analyst (“BCBA”), 1:1 academic instruction,
2 extended year services, counseling, and any additional compensatory education
3 services deemed necessary.

- 4 • FUSD shall provide all assistive technology services and devices needed to
5 provide Student with a FAPE.
- 6 • Unless the IEE(s) and Petitioners agree otherwise, Petitioners are seeking
7 placement in the least restrictive environment (“LRE”).
- 8 • FUSD shall fund attorney fees and all other costs incurred through the filing of
9 this complaint pursuant to 20 U.S.C. §1415(i)(3)(B).
- 10 • Petitioners request that OAH deems them the prevailing party on all plead
11 issues.

12 The Tribunal has considered the entire hearing record, including witness
13 testimony and admitted exhibits, and now makes the following Findings of Fact,
14 Conclusions of Law, and Ruling finding that Petitioners have failed to demonstrate that
15 Respondent procedurally and/or substantively violated the IDEA through the
16 aforementioned allegation(s) set forth in the DUE PROCESS COMPLAINT. Petitioners’
17 requested remedies are denied. The credible and material evidence of record is as
18 follows:
19

20 **FINDINGS OF FACT**

21 **BACKGROUND**

22 1. Student was born on [REDACTED] at 38 weeks by C-Section she was in
23 the breach position with the umbilical cord around her neck. At age three months,
24 Student was hospitalized for three days for high fever. At age five, Student was
25 prescribed corrective lenses.⁶

26 2. Student started attending [REDACTED]
27 Arizona, for [REDACTED]. Behavioral concerns were noted and Student repeated
28 [REDACTED]

29
30 ⁶ See Respondent Exhibit L.

1 3. Towards the end of [REDACTED] grade, a parent requested an evaluation for
2 Student and the evaluator recommended educational classifications of [REDACTED]
3 [REDACTED] and [REDACTED]. Ultimately, Student was defined
4 under [REDACTED].⁷

5 4. At age [REDACTED], Student was diagnosed with [REDACTED]
6 [REDACTED] and [REDACTED], which led to her receiving counseling services.⁸

7 5. Student attended [REDACTED] located in
8 Flagstaff, Arizona, for [REDACTED] grade. Behaviors that promoted learning were
9 mixed in [REDACTED] grade with scores of Satisfactory across all areas in the final quarter of
10 the year. Concerns were more consistent in [REDACTED] grade.⁹ Student began [REDACTED] grade at
11 [REDACTED].

12 6. During [REDACTED] grade year at [REDACTED], on or about August 14, 2024, an incident
13 happened at school, whereby Student bit, hit, pinched, punched, and kicked staff.¹⁰

14 7. On August 19, 2024, Student had two major incidents including one that
15 involved restraining Student.¹¹

16 8. On September 3, 2024, Student transferred from [REDACTED] to [REDACTED]
17 [REDACTED] located in Flagstaff, Arizona. [REDACTED] was deemed more
18 suitable due to its Behavior Support Program (“BSP”). About the time of this transition,
19 Student was promoted to [REDACTED] grade, based on her age.¹²

20 9. By October 22, 2024, Student accumulated six out-of-school suspensions
21 between [REDACTED].¹³

22 10. By this timeframe, Student had been diagnosed with [REDACTED]
23 [REDACTED] and [REDACTED].¹⁴

26 _____
27 ⁷ *Id.*

28 ⁸ See Respondent Exhibit A at 006.

29 ⁹ See Respondent Exhibit L.

30 ¹⁰ See Petitioner Exhibit 6 at 0303.

¹¹ *Id.* at 0297.

¹² See Respondent Exhibit L.

¹³ See Petitioner Exhibit 6 at 0272.

¹⁴ See Respondent Exhibit L at 075.

1 11. Petitioners received continual support from outside, local advocate
2 organizations such as Child & Family Support Services (“CFSS”) and Kaibab Behavioral
3 Services (“Kaibab”) who walked beside the family to support the Student with her
4 education and behavioral needs.

5 **HEARING EVIDENCE**

6 12. On August 26, 2024, FUSD issued an IEP Addendum that summarized
7 moving Student to [REDACTED]¹⁵ The IEP had an anticipated duration from
8 December 16, 2023, to December 14, 2024, with a reevaluation date of December 2,
9 2024.¹⁶ Petitioners, CFSS, and Kaibab were in attendance on behalf of Student.¹⁷

10 13. On September 26, 2024, Student was suspended for 1.5 days due to
11 physical aggression towards the program specialist and principal; police were called to
12 the school.¹⁸

13 14. On October 14, 2024, a PWN was issued by [REDACTED], which documented
14 that the team met to review and revise Student’s current IEP and BIP.¹⁹ In addition, the
15 PWN documented the following: Student’s transition from [REDACTED] a review of
16 Student’s current academic and behavioral data, that the team would continue to follow
17 the current IEP and BIP, and that the team would continue to work on reducing
18 Student’s louder classroom disruptions while providing additional training and support to
19 her peers.²⁰

20 15. On October 21, 2024, Student exhibited aggressive behavior by hitting her
21 classroom teacher about ten times, hit the program specialist, and a police report was
22 made.²¹ As a result, Student received an in-school suspension for a half day and had
23 an out-of-school suspension on October 22, 2024.²²

24 16. On October 24, 2024, Student had a major behavioral incident at [REDACTED].
25 For approximately one hour, Student yelled, screamed, made verbal threats towards

26 _____
27 ¹⁵ See Respondent Exhibit A.

28 ¹⁶ *Id.*

29 ¹⁷ *Id.*

30 ¹⁸ See Respondent Exhibit M at 089.

¹⁹ See Respondent Exhibit B.

²⁰ *Id.*

²¹ See Respondent Exhibit M at 088.

²² See Respondent Exhibit Q at 204.

1 administrative staff, hit the principal approximately 36 times, banged on windows, and
2 threw school furniture.²³

3 17. On October 31, 2024, Student was placed on in-school suspension until
4 the MDR meeting on November 5, 2024.²⁴

5 18. On November 5, 2024, an MDR was held whereby Petitioners, CFSS, and
6 Kaibab were in attendance on behalf of Student.²⁵ The team discussed the October 24,
7 2024 incident.²⁶ The team determined that the “aggressive acting out appears to be
8 related to disability condition,” and concluded “the pattern of behavior is substantially
9 related to the disability/suspected disability.”²⁷ Towards the end of the MDR, Petitioners
10 received a phone call informing them that Student had been accepted and would be
11 hospitalized at Aurora, which was a Level One treatment facility. Petitioners, working
12 with their local advocates, decided to place Student at Aurora due to medical/behavioral
13 reasons.

14 19. Also, at the MDR meeting, a CFSS clinical supervisor that worked with
15 Petitioners explained that Aurora would take Student’s IEP, she would be removed from
16 ██████████, Aurora would take over the services that she was being provided, and when
17 Student was released from Aurora, then ██████████ would pick back up with services.²⁸

18 20. Student’s last day of attendance at ██████████ was on November 7, 2024.

19 21. On November 8, 2024, Stepmother sent an email to Special Education
20 Program Specialist and certified special education teacher, which stated in pertinent
21 part, “We spoke with Aurora today and they do not have any educational piece and do
22 not contract with any schools down in the Phoenix area, so we do still need to meet with
23 the ██████████ team for MET 2 and everything.”²⁹

24 22. On November 9, 2024, Student was hospitalized and admitted into Aurora.

25 23. On November 14, 2024, a PWN was issued by ██████████ which documented
26 that the Multidisciplinary Evaluation Team (“MET”) reviewed information provided by

27 ²³ See Respondent Exhibit M at 088.

28 ²⁴ See Respondent Exhibit Q at 201.

29 ²⁵ See Respondent Exhibit C.

30 ²⁶ *Id.*

²⁷ *Id.*

²⁸ See Transcript Day 2 pages 54-56.

²⁹ See Petitioner Exhibit 6 at 265.

1 Petitioners, including medical, social, and developmental summary and history;
2 educational history; review of previous evaluations/assessments; state and district
3 assessments; current classroom-based academic achievement, behavioral
4 observations, assessments, and functional performance; and factors that may be
5 exerting an adverse impact on Student's educational performance.³⁰ The MET
6 determined that additional data was needed in the social/emotional/behavioral areas.³¹

7 24. On November 14, 2024, a second PWN was issued by [REDACTED] which
8 documented that the reevaluation process would be suspended as "unable to complete"
9 due to Student's withdrawal from [REDACTED] to enroll at a residential treatment center
10 ("RTC").³² The MET believed that the diagnostic information they would receive from
11 Student's stay at Aurora would be critical in making a more accurate classification of her
12 disabling conditions.³³ The MET determined that upon Student's reenrollment at
13 [REDACTED], the reevaluation process would be initiated.³⁴

14 25. On November 20, 2024, Stepmother wrote in an email to Special
15 Education Program Specialist the following:

16 Hello!

17 I'm not sure if the PWN needs to be fixed. It says [Student] was
18 withdrawn to enroll at RTC. I don't think Aurora is listed as RTC, just a
19 BHRF. It does not do any schooling and does not coordinate with any
20 school.

21 [Student] is still enrolled with [REDACTED]. This is just a hospital stay.
22 We will still need to complete MET 2 and IEP review and reevaluation
23 through [REDACTED]. I know right now assessments can't be done as she isn't
24 there. We will be sure to share any information needed from Aurora.

25 Thank you!³⁵

26
27
28 ³⁰ See Respondent Exhibit D.

³¹ *Id.*

³² See Respondent Exhibit E.

³³ *Id.*

³⁴ *Id.*

³⁵ See Petitioner Exhibit 9.

1 26. On November 23, 2024, Father emailed Special Education Program
2 Specialist and stated in pertinent part, as follows:

3 We visited with [Student] and she seems to be doing good. It was very
4 limited with what she could have. We have another CFT on the 26th at
5 4:00. We feel it would be in the schools and [Student's] best interest to
6 have someone from the schools attend. It would help present a clear view
7 of what is and isn't working for behaviors.³⁶

8 27. On February 8, 2025, Student was discharged from Aurora.

9 28. On or about February 11, 2025, Student was reenrolled at [REDACTED].³⁷

10 29. On February 13, 2025, a PWN was issued by [REDACTED] which documented
11 that the MET process started just prior to Student being admitted to Aurora.³⁸

12 Petitioners and their advocates requested a 30-day delay to allow Student to adjust to
13 being home and at school following her stay at Aurora. The school team agreed that
14 additional time was needed to assess Student's needs and that the team planned to
15 review data the week of March 17, 2025.³⁹

16 30. On February 14, 2025, a PWN was issued by [REDACTED] which documented a
17 proposal to set up a transition plan for Student's return to school.⁴⁰ The school team
18 determined that given the information from Petitioners who reported Student made
19 behavior improvements, a slow transition back to receiving the same services outlined
20 in her IEP would be the course of action.⁴¹ The transition plan set forth the following:
21 February 18 with two 30-minute academic sessions virtually Monday-Thursday 9:00am-
22 9:30am and 12:00pm-12:30pm; each day Monday-Thursday from 3:00pm-4:00pm, in
23 person sessions to work on special education service minutes and integrating
24 academics and routines.⁴² The school team would revisit the transition and placement,
25 depending on how Student's first few weeks back went.⁴³ The PWN notated that

26 _____
27 ³⁶ See Respondent Exhibit Q at 198.

28 ³⁷ *Id.* at 174.

29 ³⁸ See Respondent Exhibit F.

30 ³⁹ *Id.*

⁴⁰ See Respondent Exhibit G.

⁴¹ *Id.*

⁴² See Respondent Exhibit H.

⁴³ See Respondent Exhibit G.

1 Petitioners disagreed that they withdrew Student from [REDACTED] and did not want a slow
2 transition, but would prefer Student go back to [REDACTED] on a full-time basis.⁴⁴

3 31. Student's scheduled first day back to school after the hospitalization was
4 on February 18, 2025. Parents opted not to send Student back on February 18, 2025,
5 as email by Stepmother stated in pertinent part, as follows:

6 We did not send [Student] to school on this date because we were
7 concerned about the proposed schedule and the PWN issued. After
8 consulting our advocate, we decided to send [Student] to school on
9 February 19, 2025, but continue to have concerns with this PWN and the
10 current proposed transition plan.⁴⁵

11 32. From March 3, 2025, to March 24, 2025, school was open for instruction
12 for only nine days, due to spring break and snow days. During that period, Student
13 demonstrated unsafe behavior and was secluded on four of those nine days.⁴⁶

14 33. On April 4, 2025, a PWN was issued by [REDACTED] which documented that
15 the team reviewed Student's transition data and progress.⁴⁷ Based on that progress,
16 the team decided to extend one daily online session by 10 minutes and to add a 30
17 minute online session to be held on Fridays, with the afternoon sessions continuing to
18 be held Monday-Thursday from 2:30pm-4:00pm.⁴⁸ The PWN further documented that
19 Petitioners reported that after Student's hospitalization, they recognized changes at
20 home, whereby Student's responses to an upsetting situation were for a shorter
21 duration of time and positive changes in how Student treated her sister.⁴⁹

22 34. On April 8, 2025, Student's IEP meeting was held and a PWN was issued
23 by [REDACTED] which documented the IEP meeting and a determination to change Student's
24 LRE from a level C to a level D.⁵⁰ The PWN documented that Student's goals and
25 accommodations would remain similar to her prior IEP and the team would meet to
26 conduct the MET before May 21, 2025. The PWN further notated that the information

27 ⁴⁴ *Id.*

28 ⁴⁵ See Respondent Exhibit Q at 166.

29 ⁴⁶ See Respondent Exhibit I.

30 ⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ See Respondent Exhibit J.

1 gathered from the future MET would determine the changes to Student's educational
2 plan.⁵¹

3 35. On April 15, 2025, an email was sent to the team and notified them about
4 the May 13, 2025, MET/IEP meeting, and included the following topics for discussion (a)
5 review results of additional observations and assessments, (b) reestablish eligibility for
6 special education services, and (c) added IEP to reflect new eligibility date and updated
7 evaluation information.⁵² Eventually, this meeting was rescheduled to May 22, 2025.

8 36. On April 16, 2025, a PWN was issued by [REDACTED] which documented that
9 the MET needed additional data in the areas of classroom observation and
10 social/emotional/behavioral.⁵³

11 37. On April 17, 2025, Stepmother signed off on the permission to evaluate
12 form and returned the form to School Psychologist.⁵⁴

13 38. On May 22, 2025, a MET was held with Petitioners and their advocates
14 present along with other members of the MET.⁵⁵ The MET Report documented the
15 team's recommendations as follows: (a) Student met the criteria of a student with a
16 disability, (b) Student was in need of specially designed instruction and related services
17 to benefit from their educational program, and (c) Student was eligible for special
18 education services.⁵⁶ The MET Report further documented a recommendation that
19 Student's primary classification was [REDACTED] with [REDACTED] as the secondary classification.⁵⁷ Due
20 to Student's [REDACTED] diagnosis through CFSS, Parents disagreed to the team's
21 classification recommendation.⁵⁸ The team explained that Student was found ineligible
22 for a classification of [REDACTED] because [REDACTED]-related characteristics were not observed
23 by school staff to have a significant impact on her educational functioning. Rather,
24 educational impacts were primarily rooted in emotional dysregulation.⁵⁹

25
26 ⁵¹ *Id.*

27 ⁵² See Respondent Exhibit Q at 141.

28 ⁵³ See Respondent Exhibit K.

29 ⁵⁴ See Respondent Exhibit Q at 134-135.

30 ⁵⁵ See Respondent Exhibit L at 080.

⁵⁶ See Respondent Exhibit L.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

1 39. On May 23, 2025, an IEP team meeting was held, resulting in the
2 issuance of a new IEP for Student.⁶⁰ Petitioners and their advocate participated at the
3 meeting on behalf of Student.⁶¹ The IEP included modifications such as, but not limited
4 to, the primary and secondary special education categories, updated summary of
5 educational needs, special education services to be provided, decrease to two social
6 emotional goals, decrease down to 80 minutes per week for behavior support, and
7 participation in the specialized BSP.⁶² Also, the team determined that Student was
8 eligible for an extended school year (“ESY”) based on the current positive growth when
9 regulating her emotions and persevering during non-preferred tasks.⁶³

10 40. On May 23, 2025, a PWN was issued by [REDACTED] which documented the
11 proposals and outcome from the May 22, 2025 MET meeting.⁶⁴

12 **ADDITIONAL EVIDENCE**

13 41. During Student’s time at [REDACTED], prior to her hospitalization, there were
14 600 minutes of documented extreme yelling and screaming, approximately 45 hours of
15 closed-fist hitting of staff members, throwing of furniture and other objects, and a desk
16 used as a battering ram against walls and windows, in which all of these incidents
17 contributed to classroom disruptions and instruction stoppages for other students.⁶⁵ In
18 addition, Special Education Program Specialist and Petitioners described academics
19 and schoolwork as a nonpreferred task for Student, which would cause her to escalate.

20 42. After Student’s discharge from Aurora and reenrollment at [REDACTED], there
21 were fewer incidents of aggressive behavior and behavior data indicated that Student
22 had not engaged in an outburst cycle since March 24, 2025.⁶⁶ In fact, the May 23, 2025
23 IEP notated the following, “Since she has returned from Aurora, [Student] has been
24 gradually returning to in-person learning and is experiencing success in low-demand,
25
26

27 ⁶⁰ See Respondent Exhibit M.

28 ⁶¹ *Id.*

29 ⁶² *Id.*

30 ⁶³ *Id.* at 094.

⁶⁴ See Respondent Exhibit N.

⁶⁵ See Transcript Day 2 at pages 33-35.

⁶⁶ See Respondent Exhibit M at 094.

1 time-limited situations. Her mood is generally good and she enjoys interacting with
2 peers and staff.”⁶⁷

3 43. At the May 22, 2025 MET, School Psychologist articulated that Student
4 should remain on the transition trajectory and continue to slowly increase participation
5 for the ESY and 2025-2026 school year. He believed, because there was success, that
6 would be in Student’s best interest. Ultimately, Special Education Executive Director
7 made the deciding factor and agreed with Petitioners to have Student fully immersed in
8 the truncated ESY and begin in a full-time status for the 2025-2026 school year.⁶⁸

9 **ADDITIONAL CONSIDERATIONS**

10 44. The parties agreed that the [REDACTED] Registrar classified Student’s status as
11 unenrolled on or about November 14, 2024.

12 45. The parties agreed that Respondent did not provide Student with
13 educational instruction of any kind during the Aurora hospitalization. The record
14 established that Petitioners requested Special Education Program Specialist’s presence
15 at Aurora meetings. As such, while Student was hospitalized, Special Education
16 Program Specialist attended Child & Family Team (“CFT”) meetings. The CFT
17 meetings primarily consisted of Student’s CFSS providers, her family, and Aurora
18 hospital staff. The CFT meetings covered the day-to-day progress or setbacks of
19 Student and academics were not discussed. In addition, at Aurora, the staff were not
20 introducing Student to non-preferred activities.

21 46. Special Education Executive Director testified that she was aware of
22 Aurora’s policies due to previous students who had been parentally placed into the
23 psychiatric facility and Aurora did not permit its patients to receive services from outside
24 school districts.⁶⁹ Special Education Executive Director further testified that she
25 reached out to Aurora about Student’s case and was informed that they would not be
26 able to provide educational services in its facility.⁷⁰

27 **CLOSING ARGUMENTS**

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29 ⁶⁷ *Id.* at 085.

⁶⁸ See Transcript Day 2 at pages 208-209.

⁶⁹ See Transcript Day 2 at pages 187-190.

⁷⁰ *Id.*

1 47. In closing, Respondent argued that Petitioners failed to sustain their
2 evidentiary burden as to all three of the alleged issues, as the evidence of record
3 established that Student's hospitalization, reenrollment with transition back, and
4 accumulation of additional data and documentation delayed the triennial reevaluation
5 and the annual IEP.

6 48. In **Issue 1**, Respondent asserted that the team agreed to delay these
7 items when they became aware of Student's impending hospitalization. Respondent
8 argued that, after the hospitalization, the MET was opened in late March 2025, the
9 permission to evaluate and Parents' consent was received on April 17, 2025, and the
10 reopening and process culminated within 60 days of the MET meeting on May 22, 2025.
11 The IEP lapsed due to Student's hospitalization. After Student was reenrolled, multiple
12 meetings were held with the IEP team, while the lapsed IEP continued to be
13 implemented until the formal annual review was held with the necessary updated data
14 and evaluation. FUSD argued that for these reasons there was no procedural violation,
15 the delays were justified, and no violation of FAPE occurred.

16 49. In **Issue 2**, Respondent argued that the Aurora hospitalization was not a
17 change of educational placement as a result of discipline, but was a voluntary
18 admission initiated by Petitioners. Respondent contended that Student was not enrolled
19 in FUSD during her hospitalization and FUSD was not required to provide special
20 education services. Furthermore, Respondent contended that Parents unilaterally
21 admitted Student into an inpatient medical psychiatric facility for non-educational
22 purposes and as such, FUSD had no obligation to provide FAPE during that time.
23 Respondent hypothesized that, even if FUSD was responsible for providing Student
24 special education during her hospitalization, per Aurora's policies and due to psychiatric
25 instability, FUSD was unable to access Student.

26 50. In **Issue 3**, Respondent argued that Parents, CFSS, and Kaibab received
27 notice, participated, and provided input at every meeting. Respondent asserted that
28 [REDACTED] failure to adopt some of Parents' suggestions did not equate to a lack of their
29 meaningful participation. Lastly, Respondent addressed Petitioner's assertion that they
30 were not provided PWNs, prior to each meeting which equated to a denial of meaningful
participation. Respondent countered that Petitioners misstated the law, which requires

1 a PWN to contain the options the IEP team considered, the reason for any options
2 being rejected, and the options that will be implemented, and, as such, it is not possible
3 to issue a PWN prior to an IEP team meeting.

4 51. In closing, in **Issue 1**, Petitioners argued that a procedural violation
5 occurred when FUSD failed to develop or implement any IEP during Student's
6 hospitalization and did not timely complete the annual IEP and triennial reevaluation,
7 which resulted in a loss of educational opportunity and denied Student services which
8 amounted to a denial of FAPE.

9 52. In **Issue 2**, Petitioners argued that FUSD unilaterally withdrew Student
10 from [REDACTED] prior to her hospitalization and failed to implement the IEP during Student's
11 hospitalization. Petitioners asserted that, because FUSD failed to establish that Parents
12 voluntarily withdrew Student from [REDACTED], [REDACTED] remained the LEA and retained full
13 responsibility to provide FAPE to Student by implementing the IEP as written during the
14 time she was hospitalized. In addition, Petitioners argued that when Student was
15 discharged from Aurora, she was reenrolled and [REDACTED] imposed a reduced school day,
16 approximately two hours a day, which was contrary to the last IEP, which had lapsed by
17 that time. Petitioners charged this reduction in services was a material deviation from
18 the IEP, a failure to implement, and a denial of FAPE.

19 53. In **Issue 3**, Petitioners argued that the LEA prevented Parents' meaningful
20 participation because FUSD made critical decisions before Parents were meaningfully
21 informed or given an opportunity to participate. Petitioners alleged that FUSD made
22 decisions in advance and presented it to Parents as non-negotiable, which constituted
23 predetermination in violation of the IDEA. Lastly, Petitioners argued that the delayed
24 triennial reevaluation deprived Parents of current evaluative information needed to
25 participate meaningfully and that delay was a denial of FAPE.

26 **CONCLUSIONS OF LAW**

27 **APPLICABLE LAW**

28 1. Congress enacted the IDEA to ensure that all students with disabilities are
29 offered a FAPE that meets their individual needs.⁷¹ The IDEA does not define the level

30 ⁷¹ *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1500 (9th Cir. 1996).

1 of education that must be provided, except that it must be “reasonably calculated to
2 enable the student to receive educational benefits.”⁷² Through the IDEA, Congress has
3 sought to ensure that all students with disabilities are offered a FAPE that meets their
4 individual needs.⁷³ These needs include academic, social, health, emotional,
5 communicative, physical, and vocational needs.⁷⁴ To do this, school districts must
6 identify and evaluate all students within their geographical boundaries who may be in
7 need of special education and services. The IDEA sets forth requirements for the
8 identification, assessment and placement of students who need special education, and
9 seeks to ensure that they receive a free appropriate public education. The IDEA
10 mandates that school districts provide a “basic floor of opportunity.”⁷⁵

11 2. A FAPE consists of “personalized instruction with sufficient support
12 services to permit the child to benefit educationally from that instruction.”⁷⁶ The FAPE
13 standard is satisfied if the student’s IEP sets forth his or her individualized educational
14 program that is “reasonably calculated to enable the child to receive educational
15 benefit.”⁷⁷ Therefore, a school offers a FAPE by offering and implementing an IEP
16 “reasonably calculated to enable [a student] to make progress appropriate in light of [the
17 student’s] circumstances.”⁷⁸ The IDEA does not require that each student’s potential be
18 maximized.⁷⁹ A student receives a FAPE if a program of instruction “(1) addresses his
19 unique needs, (2) provides adequate support services so he can take advantage of the
20 educational opportunities and (3) is in accord with an individualized educational
21 program.”⁸⁰

22 ⁷² *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist., Westchester Cnty. v. Rowley*, 458 U.S. 176, 201
23 (1982).

24 ⁷³ 20 U.S.C. §1400(d); 34 C.F.R. § 300.1.

25 ⁷⁴ *Seattle Sch. Dist. No. 1 v. B.S.*, 82 F.3d 1493, 1500 (9th Cir. 1996) (quoting H.R. Rep. No. 410, 1983
26 U.S.C.C.A.N. 2088, 2106).

27 ⁷⁵ *Rowley*, 458 U.S. at 200.

28 ⁷⁶ *Hendrick Hudson Cent. Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 204 (1982).

29 ⁷⁷ *Id.*, 485 U.S. at 207. In 2017, in *Andrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. ____, 137 S. Ct.
30 988, 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).

⁷⁸ *Andrew F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. ____ (2017).

⁷⁹ *Hendrick Hudson Central Sch. Dist. Bd. of Educ. v. Rowley*, 458 U.S. 176, 198 (1982).

⁸⁰ *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)).

1 3. Once a student is determined to be eligible for special education services,
2 a team composed of the student’s parents, teachers, and others formulate an IEP that,
3 generally, sets forth the student’s current levels of educational performance and sets
4 annual goals that the IEP team believes will enable the student to make progress in the
5 general education curriculum.⁸¹ The IEP tells how the student will be educated,
6 especially with regard to the student’s needs that result from the student’s disability, and
7 what services will be provided to aid the student. The student’s parents have a right to
8 participate in the formulation of an IEP.⁸² The IEP team must consider the strengths of
9 the student, concerns of the parents, evaluation results, and the academic,
10 developmental, and functional needs of the student.⁸³ To foster full parent participation,
11 in addition to being a required member of the team making educational decisions about
12 the student, school districts are required to give parents written notice when proposing
13 any changes to the IEP,⁸⁴ and are required to give parents, at least once a year, a copy
14 of the parents’ “procedural safeguards,” informing them of their rights as parents of a
15 student with a disability.⁸⁵

16 4. The IEP team must consider the concerns of a student’s parents when
17 developing an IEP.⁸⁶ In fact, the IDEA requires that parents be members of any group
18 that makes decisions about the educational placement of a student.⁸⁷

19 5. A parent who requests a due process hearing alleging non-compliance
20 with the IDEA must bear the burden of proving that claim.⁸⁸ The standard of proof is
21 “preponderance of the evidence,” meaning evidence showing that a particular fact is
22 “more probable than not.”⁸⁹

23 ⁸¹ 20 U.S.C. § 1414(d); 34 C.F.R. §§ 300.320 to 300.324.

24 ⁸² 20 U.S.C. § 1414(d)(1)(B); 34 C.F.R. §§ 300.321(a)(1).

25 ⁸³ 20 U.S.C. § 1414(d)(3)(A); 34 C.F.R. §§ 300.324(a).

26 ⁸⁴ 20 U.S.C. § 1415(b)(3); 34 C.F.R. § 300.503.

27 ⁸⁵ 20 U.S.C. § 1415(d); 34 C.F.R. § 300.503. Safeguards may also be posted on the Internet.
28 20 U.S.C. § 1415(d)(B).

29 ⁸⁶ 20 U.S.C. § 1414(d)(3)(A)(ii); 34 C.F.R. §§ 300.324(a)(1)(ii).

30 ⁸⁷ 20 U.S.C. § 1414(e); 34 C.F.R. §§ 300.327 and 300.501(c)(1).

⁸⁸ *Schaffer v. Weast*, 546 U.S. 49, 56 (2005).

⁸⁹ *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).

1 6. The IDEA’s statute of limitations requires courts to bar claims made more
2 than two years after the parents “knew or should have known” about the actions forming
3 the basis of the complaints.⁹⁰

4 7. Statutes should be interpreted to provide a fair and sensible result.⁹¹ “In
5 applying a statute its words are to be given their ordinary meaning unless the legislature
6 has offered its own definition of the words or it appears from the context that a special
7 meaning was intended.”⁹²

8 8. This Tribunal’s determination of whether Student received a FAPE must be
9 based on substantive grounds.⁹³ A FAPE consists of “personalized instruction with
10 sufficient support services to permit the child to benefit educationally from that
11 instruction.”⁹⁴ Courts do not “substitute their own notions of sound educational policy for
12 those of the school authorities which they review.”⁹⁵ In addition, the appropriateness of
13 an offer of FAPE must be judged in light of the circumstances at the “snapshot in time”
14 when the IEP was developed, not with the benefit of hindsight.⁹⁶

15 9. Procedural violations in and of themselves do not necessarily deny a
16 student a FAPE. If a procedural violation is alleged and found, it must be determined
17 whether the procedural violation either (1) impeded the student’s right to a FAPE; (2)
18 significantly impeded the parents’ opportunity to participate in the decision-making
19 process; or (3) caused a deprivation of educational benefit.⁹⁷ If one of the three
20 impediments listed has occurred, the student has been denied a FAPE due to the
21 procedural violation.

22 10. “[W]hen a school district does not perform exactly as called for by the IEP,
23 the district does not violate the IDEA unless it is shown to have materially failed to

24 ⁹⁰ 20 U.S.C. §1415(f)(3)(C); *see also Avila v. Spokane Sch. Dist.* 81, 852 F.3d 936, 937 (9th Cir. 2017);
25 *J.K and J.C. on behalf of themselves and K.K-R v. Missoula County Publ. Schools*, 713 F. App’x 666 (9th
26 Cir. 2018).

27 ⁹¹ *See Gutierrez v. Industrial Commission of Arizona*, 226 Ariz. 395, 249 P.3d 1095 (2011)(citation
28 omitted); *State v. McFall*, 103 Ariz. 234, 238, 439 P.2d 805, 809 (1968) (“Courts will not place an absurd
29 and unreasonable construction on statutes.”).

30 ⁹² *Mid Kansas Federal Savings and Loan Ass’n of Wichita v. Dynamic Development Corp.*, 167 Ariz. 122,
128, 804 P.2d 1310, 1316 (1991).

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

⁹⁴ *Rowley*, 458 U.S. at 203.

⁹⁵ *Id.* at 206.

⁹⁶ *J.W. v. Fresno Unified Sch. Dist.*, 626 F.3d 431, 439 (9th Cir. 2010).

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

1 implement the child’s IEP.”⁹⁸ “There is no statutory requirement of perfect adherence to
2 the IEP, nor any reason rooted in the statutory text to view minor implementation
3 failures as denials of a free appropriate public education.”⁹⁹

4 **ANALYSIS & DECISION**

5 11. Petitioners filed the DUE PROCESS COMPLAINT in this matter on July 9,
6 2025; thus, the relevant period of time for the issues at bar is from July 9, 2023, through
7 July 9, 2025. Any actions or inactions that occurred before July 9, 2023, are beyond the
8 limitations period.

9 12. To prevail in the case at bar, Petitioners must establish by a
10 preponderance of the evidence that Respondent procedurally and/or substantively
11 violated the IDEA as alleged in the DUE PROCESS COMPLAINT. The Tribunal finds as
12 follows:

13 **Issue #1 - Failure of the LEA to comply with procedural requirements.**

14 **Failure to conduct annual and triennial evaluations.**

- 15 a. 34 C.F.R. § 300.324(b)(1) provides that the IEP Team reviews the child’s
16 IEP periodically, but not less than annually, to determine whether the annual
17 goals for the child are being achieved.
- 18 b. 34 C.F.R. § 300.300(c)(1)(i) provides that prior to conducting any
19 reevaluation of a child with a disability, each public agency must obtain
20 informed parental consent.
- 21 c. 34 C.F.R. § 300.303(b)(2) provides that a reevaluation must occur at least
22 once every 3 years, unless the parent and the public agency agree that a
23 reevaluation is unnecessary.
- 24 d. 34 C.F.R. § 300.304(b)(1) provides in pertinent part that in conducting the
25 evaluation, the public agency must use a variety of assessment tools and
26 strategies to gather relevant, functional, developmental, and academic
27 information about the child.
- 28 e. The annual IEP review was due on or before December 14, 2024.
- 29 f. The triennial reevaluation was due by December 2, 2024.

30 ⁹⁸ *Van Duyn v. Baker Sch. Dist.* 5J, 502 F.3d 811, 815 (9th Cir. 2007).

⁹⁹ *Id.* at 821.

1 g. In November 2024, School Psychologist opened the MET process to begin
2 the reevaluation and data collection. At the November 5, 2024 MET
3 meeting, the team determined that additional data was needed with PWN
4 dated November 14, 2024, provided to the parents. By the end of that
5 meeting, a decision was made by Petitioners to voluntarily admit Student
6 into Aurora for an undetermined amount of time. Due to Student's
7 hospitalization on November 9, 2024, FUSD was unable to conduct the
8 reevaluation by December 2, 2024. As such, the delay was justified.
9 Furthermore, Stepmother recognized there would be a delay as stated in
10 her November 20, 2024 email.¹⁰⁰ After Student's reenrollment on or about
11 February 11, 2025, School Psychologist reinitiated the reevaluation
12 discussion and Petitioners requested a 30-day delay for Student to allow her
13 to readjust to life after the hospitalization. On February 13, 2025, PWN was
14 provided to Parents. In late March 2025, School Psychologist opened the
15 MET process to begin reevaluation and data collection. School
16 Psychologist received Parents' consent for the reevaluation on April 17,
17 2025. The MET was completed on May 22, 2025.

18 h. On or about November 14, 2024, Student was unenrolled from [REDACTED] which
19 was documented in a PWN.¹⁰¹ On November 20, 2024, Stepmother
20 emailed Special Education Program Specialist and stated "[Student] is still
21 enrolled with [REDACTED]."¹⁰² It was undisputed that Petitioners did not reenroll
22 Student until on or about February 11, 2025. Regardless of who unenrolled
23 Student, she was not enrolled at [REDACTED] during the hospitalization and
24 delaying the IEP until after Student was reenrolled did not constitute a
25 procedural error. Formal IEP meetings were held on April 8, 2025, and May
26 23, 2025, and FUSD issued the IEP on May 23, 2025.

29 ¹⁰⁰ See Petitioner Exhibit 9.

30 ¹⁰¹ See Respondent Exhibit E.

¹⁰² See Petitioner Exhibit 9.

- 1 i. Petitioners failed to sustain their burden of proof as to this allegation. No
2 procedural or substantive due process violation occurred. In addition,
3 Petitioners' proposed resolutions in this regard, were moot.

4 **Failure to follow procedural safeguards**

- 5 j. The preponderance of the evidence established that Petitioners' decision to
6 voluntarily admit Student into Aurora did not constitute a disciplinary
7 removal. As such, 34 C.F.R. § 300.530(d) is inapplicable to this matter.
8 k. Petitioners failed to sustain their burden of proof as to this allegation. No
9 procedural or substantive due process violation exists.

10 **Issue #2 - LEA materially failed to implement the IEP during Student's**
11 **hospitalization.**

- 12 l. 34 C.F.R. § 300.39(a)(1) provides special education means specially
13 designed instruction, at no cost to the parents, to meet the unique needs of
14 a child with a disability, including (i) instruction conducted in the classroom,
15 in the home, in hospitals and institutions, and in other settings.
16 m. If Petitioners disenrolled Student from [REDACTED] due to her hospitalization at
17 Aurora, Respondent had no responsibility to provide FAPE until Student
18 was reenrolled.
19 n. Assuming, *arguendo*, that Respondent improperly disenrolled Student from
20 [REDACTED] due to her hospitalization, the evidence was uncontroverted that
21 [REDACTED] would have been precluded from providing educational services to
22 Student at Aurora, not because of any decision by [REDACTED], but because of
23 Aurora's policies. Given the impossibility of providing educational services
24 to Student while she was hospitalized, the ALJ cannot find that [REDACTED] failed
25 to provide FAPE during that time.
26 o. Thus, regardless of who unenrolled Student from [REDACTED] during her
27 hospitalization, the credible weight of the evidence established that FUSD
28 could not provide FAPE, due to Aurora's policies and priorities as a Level
29 One facility.¹⁰³

30 ¹⁰³ This finding differs from the factual situation developed in No. 25C-DP-077-ADE, Administrative Law
Judge Clark's Decision issued on November 10, 2025.

- 1 p. Furthermore, the record established that Student made significant progress
2 when her IEP was implemented on May 23, 2025, which supports that there
3 was no material failure to implement the IEP and no denial of FAPE.¹⁰⁴
4 q. Petitioners failed to sustain their burden of proof as to this allegation. No
5 procedural or substantive due process violation exists

6 **Issue #3 – LEA prevented meaningful parent participation.**

- 7 r. 34 C.F.R. § 300.321(a)(1) and (a)(6) provides in pertinent part that the
8 public agency must ensure that the IEP team for each child with a disability
9 includes (1) the parents of the child; and (6) at the discretion of the parent or
10 the agency, other individuals who have knowledge or special expertise
11 regarding the child, including related services personnel as appropriate.
12 s. 34 C.F.R. § 300.322(a)(1)-(2) provides that each public agency must take
13 steps to ensure that one or both of the parents of a child with a disability are
14 present at each IEP team meeting or are afforded the opportunity to
15 participate, including (1) notifying parents of the meeting early enough to
16 ensure that they will have an opportunity to attend; and (2) scheduling the
17 meeting at a mutually agreed on time and place.
18 t. 34 C.F.R. § 300.503(a)(1)-(2) provides that written notice that meets the
19 requirements of paragraph (b) of this section must be given to the parents of
20 a child with a disability a reasonable time before the public agency (1)
21 proposes to initiate or change the identification, evaluation, or educational
22 placement of the child or the provision of FAPE to the child; or (2) refuses to
23 initiate or change the identification, evaluation, or educational placement of
24 the child or the provision of FAPE to the child.
25 u. The preponderance of the evidence established that FUSD provided proper
26 notice of scheduled meetings and Petitioners and their advocate(s)
27 appeared to have attended all of them. Petitioners argued that Respondent
28 failed to provide any evidence of any pre-meeting notices that identified the
29 agenda, etc. However, Respondent submitted pre-meeting notice
30

¹⁰⁴ *Van Dayn v. Baker School District*, 502 F.3d 811 (9th Cir. 2007).

1 exhibits.¹⁰⁵ In addition, FUSD properly issued PWNs after these meetings
2 and summarized proposals to initiate or change provisions and/or
3 documented refusals to initial or change provisions.¹⁰⁶ The record
4 established that some of the input provided by Petitioners and their
5 advocate(s) on behalf of Student's needs were implemented and some of
6 the suggestions were not implemented; however, the weight of the evidence
7 established that Petitioners were a significant part of the team, voiced their
8 thoughts and opinions, and were heard.

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

11 **RULING**

12 13. The credible and substantive evidence of record does not establish
13 procedural or substantive due process violations to Claims 1, 2, or 3.

14 Based on the foregoing,

15 **IT IS ORDERED** that claims 1 through 3 are **denied**.

16 **IT IS FURTHER ORDERED** that 26C-DP-003-ADE be **dismissed with**
17 **prejudice**.

18 Done this day, January 13, 2026.

19 /s/ Nicole Robinson
20 Administrative Law Judge

21 **NOTICE OF RIGHT TO SEEK JUDICIAL REVIEW**

22 Pursuant to 20 U.S.C. § 1415(i)(1)(A), 34 C.F.R. §§ 300.514(b) and
23 300.516, and ARIZ. REV. STAT. § 15-766(E)(3), this DECISION AND ORDER is
24 the final decision at the administrative level. Furthermore, any party
25 aggrieved by the findings and decisions made herein has the right to bring
26 a civil action, with respect to the complaint presented, in any State court of
27 competent jurisdiction or in a district court of the United States. Pursuant
28 to ARIZ. REV. CODE R7-2-405(H)(8), any party may appeal the decision to a
29 court of competent jurisdiction within thirty-five (35) days of receipt of the
30 decision.

¹⁰⁵ See Respondent Exhibit Q at 141.

¹⁰⁶ See ARIZ. ADMIN. CODE R7-2-401(I)(2).

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